

ENTERED ON DOCKET

DATE 4-8-94

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

Thomas Lester Pugh,

Petitioner,

-v-

Dan M. Reynolds, et al,

Respondents.

Case No. 93-C-1042-E ✓

FILED
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

**ORDER GRANTING LEAVE TO VOLUNTARILY
DISMISS PETITION WITHOUT PREJUDICE
PENDING EXHAUSTION OF CERTAIN
CLAIMS IN STATE COURT**

Petitioner has filed a motion with this Court requesting a stay of the Court's March 3, 1994 order directing Respondents to show cause why a writ of habeas corpus should not issue, pending Petitioner's exhaustion of certain claims in his petition. Alternatively, Petitioner makes application for leave of court to permit his voluntary dismissal of his petition for a writ of habeas corpus without prejudice to its refiling upon exhaustion of available state remedies. Upon consideration of the motion and application, and examination of the petition, it does appear that certain claims raised in the petition might be remedied by the state court under available state law procedures. 22 O.S. 1991 § 1080 et seq. Piecemeal litigation of Petitioner's claims is neither in the interests of justice nor judicial economy. Therefore, the Court enters the following order:

The March 3, 1994 order of this Court directing Respondents to file their response within thirty days is hereby RECALLED. It is further ordered that Petitioner's application for leave of court to voluntarily dismiss his petition, without prejudice to its refiling pending exhaustion of available remedies afforded by state law, is hereby GRANTED. The Clerk is directed to mail a copy of this order to all parties and their counsel.

WITNESS MY HAND THIS 7th DAY OF April, 1994.

James A. Lewis
UNITED STATES DISTRICT JUDGE

ENTERED ON DOCKET

DATE 4-8-89

mks

OBA #5026

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

TIMOTHY MARCUS FRISBIE, VICKIE
DIANNE FRISBIE, and MYRA JEAN
FRISBIE, by and through her
mother and next friend, VICKIE
DIANNE FRISBIE,

Plaintiffs,

vs.

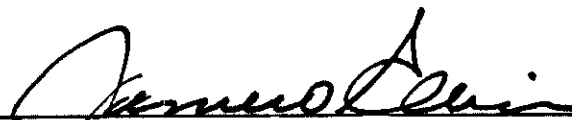
PEGGY J. JONES, O'JONES TRUCKING
INC., a Missouri corporation, THE
INTEGRAL INSURANCE COMPANY, and
FARMERS INSURANCE COMPANY, INC.,

Defendants.

FILED
CLERK
No. 92-C-1190 E ✓

ORDER OF DISMISSAL WITH PREJUDICE

ON THIS 7th day of April, 1994, the joint
application of parties for a dismissal with prejudice came on
before the court for hearing. The court finds that the settlement
agreement has been performed and that the claims and causes of
action of Timothy Marcus Frisbie, Vickie Dianne Frisbie, and Myra
Jean Frisbie, by and through her mother and next friend and
guardian ad litem, Vickie Dianne Frisbie, are hereby dismissed with
prejudice.


CHIEF JUDGE JAMES O. ELLISON
UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA

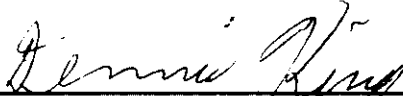
APPROVED AS TO FORM:



JOHN SCOTT


CHARLES CHESNUT

Attorneys for Timothy Marcus
Frisbie, Vickie Dianne Frisbie
and Myra Jean Frisbie, by and
through her mother and next
friend Vickie Dianne Frisbie



DENNIS KING

Attorney for Peggy J. Jones,
O'Jones Trucking, Inc., and
The Integral Insurance Company



MICHAEL MASTERSON

Attorney for Farmers Insurance
Company, Inc.

ENTERED ON DOCKET

DATE 4-8-94

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

WILLIAM WALTER SCHERMERHORN,

Plaintiff,

vs.

STANLEY GLANZ, et al.,

Defendants.

No. 93-C-889-E

ORDER

At issue before the Court are Defendants' motions to dismiss or for summary judgment [docket #4, #7, and #11] filed respectively on January 26, 1994, February 25, 1994, and March 4, 1994. The Plaintiff has not responded.

Plaintiff's failure to respond to Defendants' motions constitutes a waiver of objection to the motions, and a confession of the matters raised by the motions. See Local Rule 7.1.C. Accordingly, the Court will grant Defendants' motions and dismiss Defendants Stanley Glanz, Ron Palmer, Jimmie Allie, and Charlotte Redfearn.

At issue before the Court is also Plaintiff's failure to serve Joe Tassi within 120 days after the filing of the complaint, Fed. R. Civ. P. 4(m) (effective December 1, 1993), and Plaintiff's failure to prosecute this action against Defendant Don Carter.


After carefully reviewing the complaint, the Court concludes that Defendant Don Carter should be dismissed for failure to prosecute and that Defendant Joe Tassi should be dismissed for lack of service. However, Plaintiff is given notice that he may show good cause for his failure to serve Defendant Tassi within ten days

from the date of entry of this order. See Rule 4(m).

ACCORDINGLY, IT IS HEREBY ORDERED:

- (1) That Defendants' motions to dismiss or for summary judgment [docket #4, #7, and #11] be **granted**;
- (2) That the following Defendants be **dismissed without prejudice** at this time: Stanley Glanz, Ron Palmer, Jimmie Allie, and Charlotte Redfearn;
- (3) That Joe Tassi be **dismissed** for lack of service under Rule 4(m);
- (4) That Don Carter be **dismissed** for failure to prosecute; and
- (5) That Plaintiff **may show good cause** for failing to serve Joe Tassi within ten days from the date of entry of this Order, if he so wishes.

SO ORDERED THIS 7TH day of April, 1994.


JAMES O. ELLISON, Chief Judge
UNITED STATES DISTRICT COURT

ENTERED ON DOCKET

DATE

4-8-94

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

ISAIAH RODDY, JR.,
Plaintiff,

vs.

CORRECTIONAL MEDICAL SYSTEMS,
INC.,

Defendant.

No. 93-C-964-E ✓

APR 7 1994

ORDER

At issue before the Court is Defendant's motion to dismiss or in the alternative for summary judgment filed on February 1, 1994.

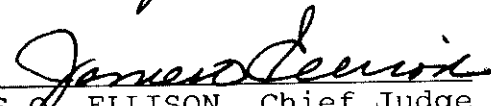
On March 8, 1994, the Court ordered the Defendant to mail Plaintiff a copy of the motion to dismiss because Defendant did not know Plaintiff's most recent address. The Court also granted Plaintiff a twenty-day extension of time to respond to Defendant's motion. In spite of these precautions, the Plaintiff has not responded.

Plaintiff's failure to respond to Defendant's motion constitutes a waiver of objection to the motion, and a confession of the matters raised by the motion. See Local Rule 7.1.C.

ACCORDINGLY, IT IS HEREBY ORDERED that:

- (1) That Defendants' motion to dismiss or for summary judgment [docket #9] be granted; and
- (2) That the above captioned case be dismissed without prejudice.

SO ORDERED THIS 7th day of April, 1994.


JAMES O. ELLISON, Chief Judge
UNITED STATES DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

HOWARD HILL and BONNIE HILL,
husband and wife,

Plaintiffs,

vs.

STEVEN R. BAILEY, an individual,
BILLY M. HOLLINGSWORTH, an
individual, SANTISI TRUCKING COMPANY,
a foreign corporation, PIEDMONT OF
MICHIGAN, INC., a foreign corporation,
RANGER INSURANCE COMPANY, a foreign
insurance company, and AMERISURE
INSURANCE COMPANY, a foreign
insurance company,

Defendants,

and

BILLY HOLLINGSWORTH, SR., BILLY
HOLLINGSWORTH, JR., ROSE M.
HOLLINGSWORTH, GINA M.
HOLLINGSWORTH, and GINA M.
HOLLINGSWORTH, as Natural Mother
and Next Friend of JOSHUA DAVID
HOLLINGSWORTH, a Minor,

Plaintiffs,

vs.

STEVEN R. BAILEY, and DONALD SANTISI
TRUCKING COMPANY,

Defendants.

ENTERED ON DOCKET
DATE APR 8 1994

FILED

APR 4 1994

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

Consolidated Case No.:

~~92-C-975-C~~

92-C-1194-6

DISMISSAL WITH PREJUDICE

Plaintiffs, Howard Ted Hill, Bonnie Mae Hill, Billy Monroe Hollingsworth, Sr.,

Rose Marie Hollingsworth, Billy Monroe Hollingsworth, Jr. and Gina Maxine Hollingsworth, individually and as natural parents and next friends of Joshua David Hollingsworth, a minor, and Defendants, Steven R. Bailey, Donald Santisi Trucking Company and Ranger Insurance Company, have filed a Joint Motion for Dismissal With Prejudice of all claims in the above-captioned action. There was also a hearing on March 23, 1994, before Magistrate Judge Wagner, where the Court approved the settlement of the claims of Joshua David Hollingsworth, a minor. Being advised in the premises, the Court finds that the Joint Motion for Dismissal With Prejudice of all claims in the above-captioned action should be granted.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the above-captioned action is dismissed with prejudice. Each party shall bear his or her own costs.

DATED this 4th day of April, 1994.

(Signed) H. Dale Cook

UNITED STATES DISTRICT JUDGE

ENTERED ON DOCKET

DATE 4-8-94

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

IN RE: GALAXY ENTERPRISES,)
INC.,)
)
Debtor,)
AMOS BAKER,)
Appellant,)
v.)
)
RESOLUTION TRUST CO.,)
ET AL.,)
Appellees.)

Case No. 93-C-151-E ✓

FILED


Richard M. Linn, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORDER

On December 28, 1993, Appellant was ordered to arrange for substitute counsel or notify the court that he intends to **represent** himself within thirty days of the date of the order or the court would dismiss the **case** for failure to prosecute. Mark A. Craige has certified that the order was mailed to Appellant on January 6, 1994. Appellant has not responded.

Pursuant to Rule 41(b) of the Federal Rules of Civil Procedure, this action is dismissed for failure to prosecute.

Dated this 8th day of April, 1994.



JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

5

ENTERED ON DOCKET

DATE 4-8-94

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

DAVID HOWELL,

Plaintiff,

vs.

BRAD PAYAS, et al.,

Defendants.

No. 93-C-1014-E

FILED

Richard M. L. Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORDER


Before the Court is Defendants' motion to dismiss or for summary judgment filed on March 1, 1994. Plaintiff has not responded, although the Court granted him a thirty day extension of time.

Plaintiff's failure to respond to Defendants' motion constitutes a waiver of objection to the motion, and a confession of the matters raised by the motion. See Local Rule 7.1(C).

ACCORDINGLY, IT IS HEREBY ORDERED that:

- (1) that Defendants' motion to dismiss or for summary judgment [docket #8] be granted and that the above captioned case be **dismissed without prejudice** at this time.

SO ORDERED THIS 7th day of April, 1994.


JAMES O. ELLISON, Chief Judge
UNITED STATES DISTRICT COURT

ENTERED ON DOCKET

DATE APR 8 1994

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

General Accident Ins. Co.,)

Plaintiff(s),)

vs.)

FNB & Trust Co., Tulsa, etal)

Defendant(s).)

APR 8 1994

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

No: _88-CV-254-C

JUDGMENT DISMISSING ACTION

The Court has been advised by counsel that this action has no issues remaining or pending in this case. Therefore, it is not necessary that the action remain upon the calendar of the Court.

IT IS ORDERED that the action is dismissed without prejudice. The Court retains complete jurisdiction to vacate this Order and to reopen the action upon cause shown that settlement has not been completed and further litigation is necessary.

IT IS FURTHER ORDERED that the Clerk forthwith serve copies of this Judgment by United States mail upon the attorneys for the parties appearing in this action.

IT IS SO ORDERED this 4th day of April, 1994_.


UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF OKLAHOMA

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

APR - 8 1994

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

BETTY J. BROWN

Plaintiff,

vs.

DONNA SHALALA, Secretary of
Health and Human Services,

Defendant.

Case No. 92-C-753-B

O R D E R

Now before the Court is Plaintiff's Motion for Attorney Fees Pursuant to the Equal Access to Justice Act (Docket #13) in the amount of \$1,904.18. The Court notes that the Defendant has not objected to such an award of attorney's fees in this matter. Upon review of the Plaintiff's motion, the pleadings and the pertinent authority, the Court concludes Plaintiff is the prevailing party, the position of the United States was not substantially justified and an award of \$1,904.18 in attorney's fees is reasonable in this case. For these reasons, Plaintiff's Motion for Attorney Fees Pursuant to the Equal Access to Justice Act is hereby GRANTED.

IT IS SO ORDERED THIS 8th DAY OF APRIL, 1994.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

ENTERED ON DOCKET
DATE APR 8 1994

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JERRY DALE BROWN;
LINDA ANN BROWN;
THE CITY BANK AND TRUST COMPANY;
COUNTY TREASURER, Tulsa County,
Oklahoma;
BOARD OF COUNTY COMMISSIONERS,
Tulsa County, Oklahoma,

Defendants.) CIVIL ACTION NO. 93-C-412-B

FILED
APR - 8 1994
Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 7 day
of Apr., 1994. The Plaintiff appears by Stephen C.
Lewis, United States Attorney for the Northern District of
Oklahoma, through Neal B. Kirkpatrick, Assistant United States
Attorney; the Defendants, COUNTY TREASURER, Tulsa County,
Oklahoma, and BOARD OF COUNTY COMMISSIONERS, Tulsa County,
Oklahoma, appear by J. Dennis Semler, Assistant District
Attorney, Tulsa County, Oklahoma; BANK OF OKLAHOMA, N.A.,
successor in interest to the defendant, THE CITY BANK AND TRUST
COMPANY, appears through J. Michael Morgan; and the Defendant,
JERRY DALE BROWN, appears not, but makes default. The Defendant,
LINDA ANN BROWN now known as LINDA ANN CLARK, appears not, and
should be dismissed from this action having previously filed a
quitclaim deed to the subject property.

The Court being fully advised and having examined the
court file finds that the Defendant, THE CITY BANK AND TRUST
COMPANY, acknowledged receipt of Summons and Complaint on May 5,

1993; that the Defendant, JERRY DALE BROWN, acknowledged receipt of Summons and Complaint on May 17, 1993; that Defendant, COUNTY TREASURER, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on May 14, 1993; and that Defendant, BOARD OF COUNTY COMMISSIONERS, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on May 6, 1993.

It appears that the Defendants, COUNTY TREASURER, Tulsa County, Oklahoma, and BOARD OF COUNTY COMMISSIONERS, Tulsa County, Oklahoma, filed their Answers on May 27, 1993.

It appears that the Defendant, BANK OF OKLAHOMA, N.A., who appeared herein on May 18, 1993, filed its Disclaimer of any interest in the property on May 18, 1993, as the successor in interest to the defendant, THE CITY BANK AND TRUST COMPANY.

It appears that the Defendant, LINDA ANN BROWN now LINDA ANN CLARK, filed a quitclaim deed to the Defendant, JERRY DALE BROWN, on May 30, 1993, recorded in the records of the Tulsa County Clerk on March 3, 1994, in Book, 5600 at Page 2392.

The Court further finds that this is a suit based upon a certain mortgage note and for foreclosure of a mortgage securing said mortgage note upon the following described real property located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

The East 25 feet of Lot Fifteen (15) and all of Lot Sixteen (16), Block Thirteen (13), SHERIDAN HILLS, an Addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded Plat thereof.

The Court further finds that on September 28, 1977, the Defendant, JERRY DALE BROWN, a single person, executed and

delivered to Mercury Mortgage Co., Inc., a Corporation a mortgage note in the amount of \$27,000.00, payable in monthly installments, with interest thereon at the rate of Eight and One-Half percent (8.5%) per annum.

The Court further finds that as security for the payment of the above-described note, the Defendant, JERRY DALE BROWN, executed and delivered to Mercury Mortgage Co., Inc., a mortgage dated September 28, 1977, covering the above-described property. Said mortgage was recorded on September 30, 1977, in Book 4286, Page 2129, in the records of Tulsa County, Oklahoma.

The Court further finds that on October 17, 1977, Mercury Mortgage Co., Inc., assigned the above-described mortgage note and mortgage to Pulaski Bank and Trust Company, its successors and assigns. This Assignment of Mortgage was recorded on October 18, 1977, in Book 4289, Page 1605, in the records of Tulsa County, Oklahoma.

The Court further finds that on July 18, 1980, Pulaski Bank and Trust Company assigned the above-described mortgage note and mortgage to the Secretary of Housing and Urban Development of Washington, D.C., his successors and assigns. This Assignment of Mortgage was recorded on July 23, 1980, in Book 4486, Page 403, in the records of Tulsa County, Oklahoma.

The Court further finds that on April 1, 1985, the Defendant, JERRY DALE BROWN, entered into an agreement with the Plaintiff lowering the amount of the monthly installments due under the note in exchange for the Plaintiff's forbearance of its right to foreclose. Superseding agreements were reached between

these same parties on January 1, 1990, January 1, 1991 and January 21, 1992.

The Court further finds that the Defendant, JERRY DALE BROWN, made default under the terms of the aforesaid note and mortgage, as well as the terms and conditions of the forbearance agreements, by reason of his failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendant, JERRY DALE BROWN, is indebted to the Plaintiff in the principal sum of \$40,686.28, plus interest at the rate of Eight and One-Half (8.5%) percent per annum from May 1, 1993 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action.

The Court further finds that the Defendant, COUNTY TREASURER, Tulsa County, Oklahoma, has a lien on the property which is the subject matter of this action by virtue of personal property taxes in the amount of \$44.00 which became a lien on the property as of June 1993. Said lien is inferior to the interest of the Plaintiff, United States of America.

The Court further finds that the Defendant, BOARD OF COUNTY COMMISSIONERS, Tulsa County, Oklahoma, claim no right, title or interest in the subject real property.

The Court further finds that pursuant to 12 U.S.C. 1710(1) there shall be no right of redemption (including in all instances any right to possession based upon any right of redemption) in the mortgagor or any other person subsequent to the foreclosure sale.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff, the United States of America, acting on behalf of the Secretary of Housing and Urban Development, have and recover judgment against the Defendant, JERRY DALE BROWN, in the principal sum of \$40,686.28, plus interest at the rate of Eight and One-Half (8.5%) percent per annum from May 1, 1993 until judgment, plus interest thereafter at the current legal rate of 4.51 percent per annum until paid, plus the costs of this action, plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, COUNTY TREASURER, Tulsa County, Oklahoma, have and recover judgment in the amount of \$44.00 for personal property taxes for the years 1989, 1991, 1992, plus the costs of this action.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, BOARD OF COUNTY COMMISSIONERS, Tulsa County, Oklahoma, have no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, BANK OF OKLAHOMA, N.A., successor in interest to THE CITY BANK AND TRUST COMPANY, has no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, LINDA ANN BROWN, now LINDA ANN CLARK, has no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendant, JERRY DALE BROWN, to satisfy the money judgment of the Plaintiff herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell according to Plaintiff's election with or without appraisement the real property involved herein and apply the proceeds of the sale as follows:

First:

In payment of the costs of this action accrued and accruing incurred by the Plaintiff, including the costs of sale of said real property;

Second:

In payment of the judgment rendered herein in favor of the Plaintiff;

Third:

In payment of Defendant, COUNTY TREASURER, Tulsa County, Oklahoma, in the amount of \$44.00, personal property taxes which are currently due and owing.

Fourth:

The surplus from said sale, if any, shall be deposited with the Clerk of the Court to await further Order of the Court.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that pursuant to 12 U.S.C. 1710(1) there shall be no right of

redemption (including in all instances any right to possession based upon any right of redemption) in the mortgagor or any other person subsequent to the foreclosure sale.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described real property, under and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the Complaint, be and they are forever barred and foreclosed of any right, title, interest or claim in or to the subject real property or any part thereof.

S/ THOMAS R. BRETT

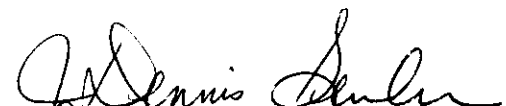
UNITED STATES DISTRICT JUDGE

APPROVED:

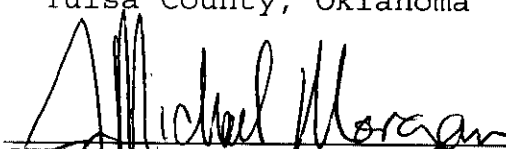
STEPHEN C. LEWIS
United States Attorney



NEAL B. KIRKPATRICK
Assistant United States Attorney
3900 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463



J. DENNIS SEMLER, OBA #8076
Assistant District Attorney
406 Tulsa County Courthouse
Tulsa, Oklahoma 74103
(918) 596-4841
Attorney for Defendants,
County Treasurer and
Board of County Commissioners,
Tulsa County, Oklahoma



STEPHEN L. BRUCE, OBA #1241
J. MICHAEL MORGAN, OBA #16391
4200 Perimeter Center Drive
Suite 200
Oklahoma City, Oklahoma 73112
(405) 948-1033
Attorney for Defendant,
Bank of Oklahoma

Judgment of Foreclosure
Civil Action No. 93-C-412-B

NBK:flv

FILED

DATE APR 08 1994

APR 5 1994

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

NEWEL LEE ROUTH,

Plaintiff,

vs.

Case No. 92-C-1125-B

J & C MORIN COMPANY, d/b/a

J & C ENTERPRISES, d/b/a

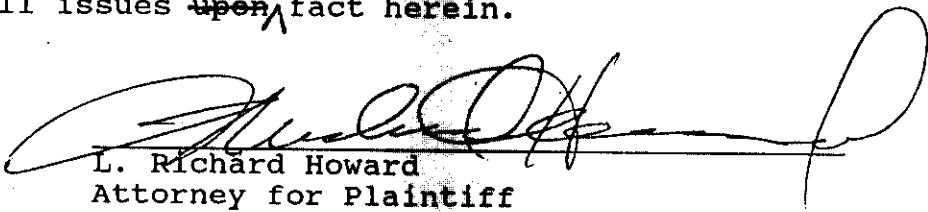
MCDONALD'S GLASSHOUSE, a

Texas corporation,

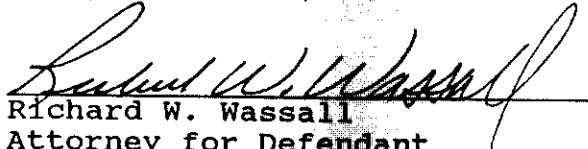
Defendant.

STIPULATION OF DISMISSAL

COME NOW the Plaintiff and Defendant and stipulate to the Court that this cause may be dismissed by the Court for the reasons and upon the grounds that the parties have reached an agreement settling all issues ^{of law and fact} ~~upon~~ fact herein.


L. Richard Howard
Attorney for Plaintiff


Newel Lee Routh, Plaintiff


Richard W. Wassall
Attorney for Defendant

ENTERED ON DOCKET
DATE APR 08 1994

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

APR 6 1994

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

RESOLUTION TRUST CORPORATION AS
RECEIVER OF FIRST FEDERAL SAVINGS
& LOAN ASSOCIATION OF COFFEYVILLE,
COFFEYVILLE, KANSAS,

Plaintiff,

v.

Case No. 91-C-972-B

HOWARD L. GULLICKSON,
individually, and PATSY R.
GULLICKSON, individually, BOARD OF
COUNTY COMMISSIONERS OF TULSA
COUNTY, OKLAHOMA and JOHN F.
CANTRELL, County Treasurer of
Tulsa County, Oklahoma,

Defendants.

OF
STIPULATION FOR
DISMISSAL WITH PREJUDICE

The Plaintiff, the Resolution Trust Corporation as Receiver for First Federal Savings and Loan Association of Coffeyville (the "RTC") and the Defendants Howard L. Gullickson and Patsy R. Gullickson (the "Gullicksons") hereby stipulate to dismiss all claims pending in the captioned action with prejudice. Specifically, the RTC hereby dismisses all claims set forth in its Complaint filed herein on December 20, 1991, and the Gullicksons hereby dismiss with prejudice all claims set forth in their Counterclaim filed herein January 9, 1992.

WHEREFORE, the RTC and the Gullicksons hereby stipulate for the dismissal with prejudice of all claims pending in this matter and pray that this Court enter an order dismissing same.


Respectfully submitted,

HALL, ESTILL, HARDWICK, GABLE,
GOLDEN & NELSON, P.C.

By: 

R. Mark Petrich, OBA #11956
4100 Bank of Oklahoma Tower
One Williams Center
Tulsa, Oklahoma 74172
(918) 588-4161

ATTORNEYS FOR THE PLAINTIFF THE
RESOLUTION TRUST CORPORATION AS
RECEIVER OF FIRST FEDERAL SAVINGS &
LOAN ASSOCIATION OF COFFEYVILLE,
COFFEYVILLE, KANSAS


H. I. Aston, Esq.
3242 East 30th Place
Tulsa, Oklahoma 74114-5831

ATTORNEY FOR HOWARD L. AND
PATSY R. GULLICKSON

ENTERED ON DOCKET

DATE 4-7-94

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

MESHELLE R. STEELMAN,

Plaintiff,

vs.

Case No. 94-C-173-E

METROPOLITAN LIFE INSURANCE CO.

d/b/a METLIFE,

Defendant.

ORDER OF DISMISSAL WITH PREJUDICE

Upon stipulation of all parties to the dismissal of this action with prejudice pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure, such action shall be and hereby is dismissed with prejudice.

SO ORDERED this 6 day of April, 1994.

BY JAMES C. [illegible]

United States District Judge

ENTERED ON DOCKET

DATE

4-7-94

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

BANK IV OKLAHOMA, N.A.

Plaintiff,

v.

FIRST MADISON BANK, F.A.

Defendant.

Case No. 93-C1107-E

ORDER

Pursuant to Stipulation of the parties, Plaintiff's claims against Defendant are hereby dismissed with prejudice.

DATED this 6 day of April, 1994.

S/ JAMES O. ELLISON

JAMES O. ELLISON
UNITED STATES DISTRICT JUDGE

ENTERED ON DOCKET

DATE

4-7-94

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

BOBBY WELLS, and
OPAL WELLS,

Plaintiffs,

vs.

J-M MANUFACTURING COMPANY,
INC., a/k/a and d/b/a
J-M MANUFACTURING CO.,

Defendant.

No. 93-C-0241E L

FILED

APR 6 1994

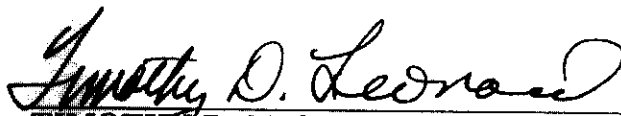
Richard M. Lawrence, Court Clerk
U.S. DISTRICT COURT

JUDGMENT

This action came on for trial before the Court and a jury, Honorable Timothy D. Leonard, United States District Judge, presiding, and the issues having been duly tried, and the jury having duly rendered its verdict.

It is Ordered and Adjudged that judgment is entered in favor of the defendant, J-M Manufacturing Company, Inc., and against the plaintiffs, Bobby Wells and Opal Wells, that the plaintiffs take nothing, that the action be dismissed on the merits, and that the defendant, J-M Manufacturing Company, Inc., recover of the plaintiffs, Bobby Wells and Opal Wells, its costs of action.

DATED at Tulsa, Oklahoma, this 5 day of ^{April}~~March~~, 1994.



TIMOTHY D. LEONARD
UNITED STATES DISTRICT JUDGE

FILED

DATE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,
Plaintiff,

vs.

SANDRA K. JEFFREY aka
SANDRA KAYE COBB JEFFREY;
ASSOCIATES FINANCIAL SERVICES
COMPANY OF OKLAHOMA, INC.;
COUNTY TREASURER, Tulsa County,
Oklahoma; BOARD OF COUNTY
COMMISSIONERS, Tulsa County,
Oklahoma,

Defendants.) CIVIL ACTION NO. 93-C-1125-B

FILED
APR - 5 1994
Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 5 day
of Apr., 1994. The Plaintiff appears by Stephen C.
Lewis, United States Attorney for the Northern District of
Oklahoma, through Neal B. Kirkpatrick, Assistant United States
Attorney; the Defendant, COUNTY TREASURER, Tulsa County,
Oklahoma, appears by J. Dennis Semler, Assistant District
Attorney, Tulsa County, Oklahoma; the Defendant, BOARD OF COUNTY
COMMISSIONERS, Tulsa County, Oklahoma, appears not having
previously claimed any right, title or interest, in subject
property; the Defendant, SANDRA K. JEFFREY AKA SANDRA KAYE COBB
JEFFREY, appears through her attorney, James O. Goodwin; and the
Defendant, ASSOCIATES FINANCIAL SERVICES COMPANY OF OKLAHOMA,
INC., appear not, but makes default.

The Court being fully advised and having examined the
court file finds that the Defendant, ASSOCIATES FINANCIAL
SERVICES COMPANY OF OKLAHOMA, INC., acknowledged receipt of

Summons and Complaint on January 29, 1994; that the Defendant, SANDRA K. JEFFREY AKA SANDRA KAYE COBB JEFFREY, was served a copy of Summons and Complaint on February 4, 1994; that Defendant, COUNTY TREASURER, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on January 6, 1994, but was dated January 6, 1993, due to scrivener error; and that Defendant, BOARD OF COUNTY COMMISSIONERS, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on December 23, 1993.

It appears that the Defendant, COUNTY TREASURER, Tulsa County, Oklahoma, filed his answer on January 10, 1994, the Defendant, BOARD OF COUNTY COMMISSIONERS, Tulsa County, Oklahoma, filed its Answer on January 10, 1994, claiming no right, title, or interest in the subject property; and that the Defendant, ASSOCIATES FINANCIAL SERVICES COMPANY OF OKLAHOMA, INC., has failed to answer and default has therefore been entered by the Clerk of this Court.

The Court further finds that in 1979, SANDRA KAYE JEFFREY filed her voluntary petition in bankruptcy in Chapter 7 in the United States Bankruptcy Court, Northern District of Oklahoma, Case No. 79-B-615. On August 13, 1979, a Discharge of Debtor was entered releasing debtor from all dischargeable debts. Subsequently, Case No. 79-B-615, United States Bankruptcy Court for the Northern District of Oklahoma, was closed on August 23, 1979.

The Court further finds that this is a suit based upon a certain mortgage note and for foreclosure of a mortgage

securing said mortgage note upon the following described real property located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Thirty-five (35), Block Six (6), NORTHGATE SECOND ADDITION to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded Plat thereof.

The Court further finds that on April 16, 1976, Anthony C. Jeffrey and the Defendant, SANDRA K. JEFFREY, executed and delivered to Wichita Falls Savings Association their mortgage note in the amount of \$15,000.00, payable in monthly installments, with interest thereon at the rate of Eight and One-half percent (8.5%) per annum.

The Court further finds that as security for the payment of the above-described note, Anthony C. Jeffrey and the defendant, SANDRA K. JEFFREY, executed and delivered to Wichita Falls Savings Association, a mortgage dated April 16, 1976, covering the above-described property. Said mortgage was recorded on April 27, 1976, in Book 4212, Page 1312, in the records of Tulsa County, Oklahoma.

The Court further finds that on January 25, 1980, Wichita Falls Savings Association assigned the above-described mortgage note and mortgage to the Secretary of Housing and Urban Development. This Assignment of Mortgage was recorded on January 28, 1980, in Book 4454, Page 735, in the records of Tulsa County, Oklahoma.

The Court further finds that on June 1, 1989, the Defendant, SANDRA K. JEFFREY AKA SANDRA KAYE COBB JEFFREY, entered into an agreement with the Plaintiff lowering the amount of the monthly installments due under the note in exchange for the Plaintiff's forbearance of its right to foreclose. Superseding agreements were reached between these same parties on October 1, 1989 and September 1, 1990.

The Court further finds that the Defendant, SANDRA K. JEFFREY AKA SANDRA KAYE COBB JEFFREY, made default under the terms of the aforesaid note and mortgage, as well as the terms and conditions of the forbearance agreements, by reason of her failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendant, SANDRA K. JEFFREY AKA SANDRA KAYE COBB JEFFREY, is indebted to the Plaintiff in the principal sum of \$16,748.77, plus interest at the rate of Eight and One-half (8.5%) percent per annum from December 1, 1993, until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action in the amount of \$174.80 (\$151.80 fees for service of Summons and Complaint, \$23.00 fee for recording fees).

The Court further finds that the Defendant, COUNTY TREASURER, Tulsa County, Oklahoma, has liens on the property which is the subject matter of this action by virtue of personal property taxes in the amount of \$9.00, plus penalties and interest, for the year of 1993; \$9.00, plus penalties and interest, for the year of 1992; \$15.00, plus penalties and interest, for the year of 1991; and \$1.00, plus penalties and

interest, for the year of 1990. Said liens are inferior to the interest of the Plaintiff, United States of America.

The Court further finds that the Defendant, the BOARD OF COUNTY COMMISSIONERS, Tulsa County, Oklahoma and ASSOCIATES FINANCIAL SERVICES COMPANY OF OKLAHOMA, INC., claim no right, title or interest in the subject real property.

The Court further finds that pursuant to 12 U.S.C. 1710(1) there shall be no right of redemption (including in all instances any right to possession based upon any right of redemption) in the mortgagor or any other person subsequent to the foreclosure sale.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff, the United States of America, acting on behalf of the Secretary of Housing and Urban Development, have and recover in rem judgment against the Defendant, SANDRA K. JEFFREY AKA SANDRA KAYE COBB JEFFREY, in the principal sum of \$16,748.77, plus interest at the rate of Eight and One-half (8.5%) percent per annum from December 1, 1993 until judgment, plus interest thereafter at the current legal rate of 4.51 percent per annum until paid, plus the costs of this action in the amount of \$174.80 (\$151.80 fees for service of Summons and Complaint, \$23.00 fee for recording fees), plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, COUNTY TREASURER, Tulsa County, Oklahoma, have and

recover judgment in the amount of \$34.00 plus penalties and interest for personal property taxes for the years 1990, 1991, 1992, 1993, plus the costs of this action.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, BOARD OF COUNTY COMMISSIONERS, Tulsa County, Oklahoma, and ASSOCIATES FINANCIAL SERVICES COMPANY OF OKLAHOMA, INC., have no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendant, SANDRA K. JEFFREY AKA SANDRA KAYE COBB JEFFREY, to satisfy the money judgment of the Plaintiff herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell according to Plaintiff's election with or without appraisement the real property involved herein and apply the proceeds of the sale as follows:

First:

In payment of the costs of this action accrued and accruing incurred by the Plaintiff, including the costs of sale of said real property;

Second:

In payment of the judgment rendered herein in favor of the Plaintiff;

Third:

In payment of Defendant, County Treasurer, Tulsa County, Oklahoma, in the amount of

\$34.00, plus penalties and interest, for personal property taxes which are presently due and owing on said real property;

The surplus from said sale, if any, shall be deposited with the Clerk of the Court to await further Order of the Court.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that pursuant to 12 U.S.C. 1710(1) there shall be no right of redemption (including in all instances any right to possession based upon any right of redemption) in the mortgagor or any other person subsequent to the foreclosure sale.


IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described real property, under and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the Complaint, be and they are forever barred and foreclosed of any right, title, interest or claim in or to the subject real property or any part thereof.

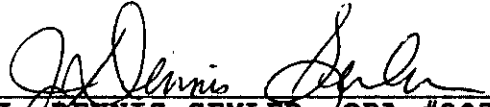
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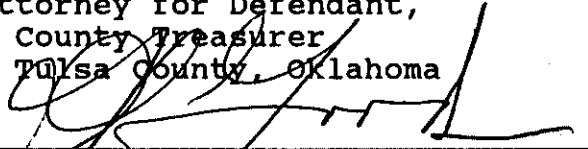
UNITED STATES DISTRICT JUDGE

APPROVED:

STEPHEN C. LEWIS
United States Attorney


NEAL B. KIRKPATRICK
Assistant United States Attorney
3900 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463


J. DENNIS SEMLER, OBA #8076
Assistant District Attorney
406 Tulsa County Courthouse
Tulsa, Oklahoma 74103
(918) 596-4841
Attorney for Defendant,
County Treasurer
Tulsa County, Oklahoma


JAMES O. GOODWIN, esq.
P.O. Box 3267
Tulsa, Oklahoma 74101
Attorney for the Defendant,
Sandra K. Jeffrey aka
Sandra Kaye Cobb Jeffrey

Judgment of Foreclosure
Civil Action No. 93-C-1125-B

NBK:flv

DATE APR 8 1994

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,
Plaintiff,

vs.

DONALD R. McKNIGHT a/k/a
DONALD RAY McKNIGHT a/k/a
DONALD K. McKNIGHT; DORIS
McKNIGHT a/k/a DORIS R.
McKNIGHT a/k/a DORIS RENA
McKNIGHT; ASSOCIATES FINANCIAL
SERVICES COMPANY OF OKLAHOMA,
INC.; STATE OF OKLAHOMA
ex rel. OKLAHOMA TAX
COMMISSION; COUNTY TREASURER,
Tulsa County, Oklahoma; BOARD
OF COUNTY COMMISSIONERS, Tulsa
County, Oklahoma,

Defendants.) CIVIL ACTION NO. 93-C-479-B

FILED

APR - 8 1994

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORDER

Upon the Motion of the United States of America, acting on behalf of the Secretary of Veterans Affairs, by Stephen C. Lewis, United States Attorney for the Northern District of Oklahoma, through Kathleen Bliss Adams, Assistant United States Attorney, and for good cause shown it is hereby ORDERED that this action shall be dismissed without prejudice.

Dated this 5 day of April, 1994.

S/ T. J. ...

UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM AND CONTENT:
STEPHEN C. LEWIS
United States Attorney

KATHLEEN BLISS ADAMS, OBA #13625
Assistant United States Attorney
3900 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463

ENTERED

DATE APR 5 1994

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MICHAEL GREG WALLACE a/k/a
MIKE WALLACE; CARLA DIANA
WALLACE a/k/a CARLA WALLACE
a/k/a CARLA D. WALLACE; GREEN
COUNTRY FEDERAL SAVINGS AND
LOAN ASSOCIATION; COUNTY
TREASURER, Ottawa County,
Oklahoma; and BOARD OF COUNTY
COMMISSIONERS, Ottawa County,
Oklahoma,

Defendants.

FILED

APR - 5 1994

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

CIVIL ACTION NO. 93-C-0114-B

DEFICIENCY JUDGMENT

This matter comes on for consideration this 5 day
of Apr, 1994, upon the Motion of the Plaintiff, United
States of America, acting on behalf of the Secretary of Veterans
Affairs, for leave to enter a Deficiency Judgment. The Plaintiff
appears by Stephen C. Lewis, United States Attorney for the
Northern District of Oklahoma, through Peter Bernhardt, Assistant
United States Attorney, and the Defendants, Michael Greg Wallace
a/k/a Mike Wallace and Carla Diana Wallace a/k/a Carla Wallace
a/k/a Carla D. Wallace, appear neither in person nor by counsel.

The Court being fully advised and having examined the
court file finds that copies of Plaintiff's Motion and
Declaration were mailed by first-class mail to Michael Greg
Wallace a/k/a Mike Wallace and Carla Diana Wallace a/k/a Carla
Wallace a/k/a Carla D. Wallace, Rt. 1, Box 372, Miami, Oklahoma
74354, and to all answering parties and/or counsel of record.
The Court further finds that the amount of the Judgment rendered
on May 6, 1993, in favor of the Plaintiff United States of
America, and against the Defendants, Michael Greg Wallace a/k/a
Mike Wallace and Carla Diana Wallace a/k/a Carla Wallace a/k/a

Carla D. Wallace, with interest and costs to date of sale is \$20,453.07.

The Court further finds that the appraised value of the real property at the time of sale was \$6,500.00.

The Court further finds that the real property involved herein was sold at Marshal's sale, pursuant to the Judgment of this Court entered May 6, 1993, for the sum of \$5,800.00 which is less than the market value.

The Court further finds that the Marshal's sale was confirmed pursuant to the Order of this Court on March 30, 1994.

The Court further finds that the Plaintiff, United States of America on behalf of the Secretary of Veterans Affairs, is accordingly entitled to a deficiency judgment against the Defendants, Michael Greg Wallace a/k/a Mike Wallace and Carla Diana Wallace a/k/a Carla Wallace a/k/a Carla D. Wallace, as follows:

Principal Balance plus pre-Judgment Interest as of 5-6-93	\$18,725.71
Interest From Date of Judgment to Sale	406.84
Late Charges to Date of Judgment	219.24
Appraisal by Agency	350.00
Abstracting	243.00
Publication Fees of Notice of Sale	283.28
Court Appraisers' Fees	<u>225.00</u>
TOTAL	\$ 20,453.07
Less Credit of Appraised Value	- <u>6,500.00</u>
DEFICIENCY	\$ 13,953.07

plus interest on said deficiency judgment at the legal rate of 4.51 percent per annum from date of deficiency judgment until paid; said deficiency being the difference between the amount of

Judgment rendered herein and the appraised value of the property herein.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the United States of America on behalf of the Secretary of Veterans Affairs have and recover from Defendants, Michael Greg Wallace a/k/a Mike Wallace and Carla Diana Wallace a/k/a Carla Wallace a/k/a Carla D. Wallace, a deficiency judgment in the amount of \$13,953.07, plus interest at the legal rate of 4.51 percent per annum on said deficiency judgment from date of judgment until paid.

UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM AND CONTENT:

STEPHEN C. LEWIS
United States Attorney

PETER BERNHARDT, OBA #741
Assistant United States Attorney
3900 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463

PB/esf

ENTERED ON DOCKET

APR 07 1994

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

WILLIAMS PIPE LINE COMPANY,

Plaintiff,

v.

INSURANCE COMPANY OF
NORTH AMERICA,

Defendant.

Case No. 92-C-125B

FILED

APR - 5 1994

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORDER

Upon consideration of the Joint Motion of Williams Pipe Line Company and Insurance Company of North America To Vacate Judgment and To Enter Dismissal With Prejudice, it is this 5 day of April, 1994,

ORDERED, that the parties Joint Motion shall be and hereby is GRANTED; and it is further

ORDERED, that the judgment entered by this Court herein on March 4, 1994 shall be and hereby is VACATED; and it is further

ORDERED, that this action shall be and hereby is DISMISSED WITH PREJUDICE, with each party to bear its own costs.

S/ THOMAS D. WRETT

United States District Judge

APR 8 1994
DATE APR 07 1994

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED
APR - 5 1994

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

IN RE: GALAXY ENTERPRISES,)
INC.,)
)
Debtor,)
AMOS BAKER,)
Appellant,)
v.)
)
RESOLUTION TRUST CO.,)
ET AL.,)
Appellees.)

Case No. 93-C-255-B

ORDER

On December 28, 1993, Appellant was ordered to arrange for substitute counsel or notify the court that he intends to represent himself within thirty days of the date of the order or the court would dismiss the case for failure to prosecute. Mark H. Craig has certified that the order was mailed to Appellant on January 6, 1994. Appellant has not responded.

Pursuant to Rule 41(b) of the Federal Rules of Civil Procedure, this action is dismissed for failure to prosecute.

Dated this 5th day of Apr., 1994.

S/ THOMAS R. BRETT

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

APR 07 1994

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

APR - 6 1994

IN RE SUBPOENA TO CUSTODIAN OF)
RECORDS AND FOR PRODUCTION OF)
DOCUMENTS ISSUED OUT OF THIS)
COURT TO CENTRILIFT, INC.)

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
Case No. 94-C-112-B

ORDER

NOW ON THIS 28th day of March, 1994, the Motion to Quash Subpoena filed on behalf of Centrilift, Inc., a division of Baker-Hughes Oilfield Operations ("Centrilift") on February 8, 1994, came on for hearing. Following presentation of evidence by movant Centrilift and the argument of counsel for Centrilift and counsel for Frankenburg, Inc., the party serving the subject subpoena, the Court finds as follows:

That the Motion to Quash is granted in part and denied in part and that Centrilift shall appear at a deposition on written questions on or before Monday, May 2, 1994, and provide documents in response to the subject subpoena for the time period November 1992 through June 1993 under the following terms and conditions:

1. Documents showing a relationship between or among the following persons or entities identified in the subpoena shall be produced to Frankenburg: Janina Karemae, David Charles Fishel, Angela F. Fishel, Wellmax, Inc., L.O. Scandinavia, Ltd, Juri Oiemets, Max International, Ltd., Vitali G. Schmidt, Vagit Y. Alekperov, Ralif R. Safin, Lukoil Scandinavia, Lukoil Estonia, Juhan Toel, N & J Team, Union Bank of Finland, Ltd., Risto Jarvinen, and Henry Nyholm;

2. Documents evidencing the date equipment was supplied to

any of the entities or persons set forth in paragraph number 1 above, such as correspondence, invoices, purchase orders, or quotations, shall be produced to Frankenburg subject to the provision that all information relating to equipment specifications, equipment configuration, price of individual items and type and quantity of equipment provided shall be redacted from such documents; and

3. Documents showing payment to Centrilift for equipment purchased by any individual or entity identified in paragraph number 1 above, subject to redaction of information showing any banking relationship of Centrilift or any of its related entities with a financial institution. In this regard, documents such as letters of credit should be provided; however, the information appearing on such documents is required only to show the originating and/or issuing bank and receipt of money; specifically excluded from production are documents showing the processing of funds by or on behalf of Centrilift, correspondence between Centrilift and banks other than the originating and/or issuing bank, or documents containing information which only relates to Centrilift's banking relationships or financial information. In the event a document exists which includes information that is to be disclosed and information that is not to be disclosed, the protected information shall be redacted and the document produced.

4. The documents shall be produced on or before Monday, May 2, 1994.

The Court specifically finds that there is no reason for copies of any documents produced subject to this Order to be used other than for the litigation currently pending in the United States District Court for the Southern District of Texas, previously styled as *Frankenburg, Inc. vs. David Charles Fishel, Angela F. Fishel and Wellmax, Inc.*, currently styled as *Frankenburg, Inc. and Frankenburg Est. vs. David Charles Fishel, Angela F. Fishel, Wellmax, Inc., The Estate of Juri Oiemets, Deceased, Lukoil Oil Concern, Lukoil Scandinavia As, Vagit Alekperov, Vitali Schmidt, Ralif Safin, L. O. Scandinavia, L. O. Scandinavia Ltd and Max International Ltd*, Case No. H-93-3216, (the "Litigation"). Therefore, copies of Centrilt documents shall not be used or disclosed for any purpose other than bona fide trial preparation and trial of the Litigation.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Motion to Quash filed on behalf of Centrilt, Inc. be and the same is hereby denied in part and granted in part, with documents to be produced in response to the subpoena as set forth above, subject to the terms and conditions contained in this Order.

DATED: 4-5-94.

/S/ JOHN LEO WAGNER
UNITED STATES MAGISTRATE JUDGE

The Honorable John L. Wagner
United States Magistrate Judge

ENTERED ON DOCKET

APR 5 1994

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

HOLDEN DUNFORD, JR.,

Plaintiff,

vs.

JIMMIE LEE BROWN, et al.,

Defendants.

Case No. 92-C-691-B ✓

FILED

APR - 5 1994

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORDER

Now before the Court is Defendant Robert Nigh's Motion to Dismiss (Docket #18) filed May 27, 1993.

Plaintiff is an inmate in Joseph Hart Correctional Center. He served time in the Tulsa County Jail from March 30, 1991, to March 20, 1992, after two misdemeanor convictions and he was again held in that jail from June 24, 1992, until October 6, 1992, on several felony charges. He was subsequently convicted of first degree burglary and sentenced to thirty years incarceration. He is currently serving that sentence.

Plaintiff's complaint, filed pro se, alleges that Judge Allen Klein, a Special Judge in Tulsa, Robert Nigh, a former Public Defender, Tulsa Assistant District Attorney E.R. Turnbull and Jimmie Lee Brown deprived him of his personal property, refused him equal protection under the law, and denied him access to the court in violation of 42 U.S.C. §1983. Defendant Nigh moves to dismiss the action pursuant to Fed.R.Civ.P. 12(b)(6).

Plaintiff has failed to respond to Defendant Nigh's motion to dismiss. Magistrate Judge Wagner entered an Order September 3,

28

1993, informing the Plaintiff that according to local rule failure to respond constitutes a waiver of objection and granting the Plaintiff an additional 30 days to respond. Plaintiff has failed to file a response.

Upon review of the Plaintiff's Complaint, the Court concludes Plaintiff has failed to state any basis for a claim against Defendant Nigh and has failed to allege Defendant was acting under color of state law. The Court further concludes Plaintiff has confessed Defendant Nigh's motion to dismiss by failing to respond.

For the reasons set out herein, Defendant Nigh's Motion to Dismiss (Docket #18) is hereby GRANTED.

IT IS SO ORDERED THIS 5th DAY OF APRIL, 1994.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

ENTERED ON DOCKET

DATE APR 07 1994

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FRANK J. PRIBOY and LAURA PRIBOY,)
husband and wife,)

Plaintiffs,)

and)

NATIONAL UNION FIRE INSURANCE)
COMPANY)

Additional Party Plaintiff,)

vs.)

No. 92-C-1073-B ✓

THE VILLAGE LIMITED PARTNERSHIP,)
an Oklahoma limited partnership;)
GORMAN, INC.; and ANTHONY)
HUTCHINSON d/b/a HUTCHINSON)
PAINTING,)

Defendants.)

FILED
APR - 5 1994
Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

J U D G M E N T

In keeping with the verdict of the jury returned April 4, 1994, Judgment is hereby entered in favor of the Plaintiff, Frank Priboy, in the sum of \$105,000.00 and in favor of the Plaintiff, Laura Priboy, in the sum of \$15,000.00 and against the Defendants, The Village Limited Partnership and Anthony Hutchinson, with pre-judgment interest thereon from November 24, 1992 to December 31, 1992, at the rate of 9.58% per annum, from January 1, 1993 to December 31, 1993, at the rate of 7.42% per annum, and from January 1, 1994 to April 4, 1994, at the rate of 6.99% per annum; and interest at the rate of 3.74% per annum on said sums from the date hereon.

Further, as the prevailing party, the Plaintiffs are awarded

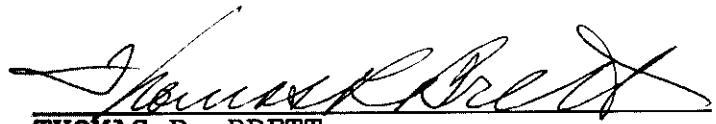
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costs against the Defendants, The Village Limited Partnership and Anthony Hutchinson, if timely applied for pursuant to Local Rule 54.1.

In keeping with the Court's ruling at the conclusion of the evidence, judgment is hereby entered in favor of Defendant Gorman, Inc., and against the Plaintiffs, Frank and Laura Priboy. Defendant Gorman, Inc., is also awarded costs against the Plaintiffs, if timely applied for pursuant to Local Rule 54.1.

All parties herein shall pay their own respective attorney's fees.¹

DATED this 5th day of April, 1994.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

¹ The subrogation interest of the additional party plaintiff, National Union Fire Insurance Company, will be determined hereafter.

ENTERED
APR 07 1994
DATE

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

APR 5 1994

Richard M. Lawrence, Court Clerk
U.S. DISTRICT COURT

GWENDOLYN G. PARTNEY,

Plaintiff,

vs.

Case No. 92-C-335-B

SAINT FRANCIS HOSPITAL, INC.,
an Oklahoma Corporation,

Defendant.

ORDER

Before the Court for consideration is Defendant, Saint Francis Hospital, Inc.'s ("Saint Francis"), Motion for Summary Judgment pursuant to Fed. R. Civ. P. 56 and Motion in Limine (Docket #49). Following a thorough review of the record, the parties' arguments,¹ and the applicable legal authority, the Court concludes the Defendant's motion should be GRANTED IN PART and DENIED IN PART.

I. Undisputed Facts

Plaintiff Gwendolyn Partney ("Partney") was employed in the Computer Services Department ("CSD") at Saint Francis beginning in August 1988, under the supervision of CSD manager Charles Harlan ("Harlan"). In 1990, Partney became Computer Operations Coordinator. In January 1990, Ray Weaver ("Weaver") was hired in the CSD under the direct supervision of Partney. In March or April of 1990, the position of Senior Operations Analyst, a position of similar seniority to the position of Partney, became available.

¹The Court notes that Plaintiff's Response to Defendant's Motion for Summary Judgment contains no citation to legal authority. Plaintiff's Response in the main consists of twenty-five pages of factual assertions and unsupported conclusions.

Weaver applied for and received the position. Partney did not apply for the position.² Partney complained to Harlan that Weaver's promotion was discriminatory. Notwithstanding, Harlan did not mention Plaintiff's complaint to anyone.

In July 1990, Partney filed a grievance, complaining of poor "working relations," "cutting off" of communication, and failure to provide specifics on how she was not "doing [her] job right". In August 1990, Harlan and Eddie Scully ("Scully"), males under the age of 40, were demoted. Weaver was promoted to the CSD manager position,³ another employee was promoted to Scully's position, and Partney received a 4 per cent pay raise and was moved to the Jr. Operations Analyst position, which was within the same grade and salary range as her former position.

On January 3, 1991, Partney was temporarily transferred to the "Help Desk"⁴ in a different department. On January 8, 1991, she filed a second grievance with the hospital. On August 9, 1991, Partney filed a charge of sex discrimination, age discrimination, and retaliation with the EEOC.

²It is disputed whether the job was posted. Partney alleges that the opening was never posted since she never saw the posting and never received phone calls about the opening, as she normally would.

³Saint Francis did not post the opening of the position of CSD manager. However, Saint Francis asserts that hospital policy did not require posting, since this was a departmental reorganization and the position was occupied until the reorganization occurred. Partney maintains that posting was required.

⁴This position provides technical assistance to the users of the computer system.

On October 4, 1991, Partney was given the choice of either returning to the CSD or remaining at the help desk with a decrease in grade and pay level. She met with the Executive director of Personnel, Robert Liguori ("Liguori"), the Director of Management Information Systems, Don Burgess ("Burgess") and Weaver on October 10, 1993, to discuss the choice she was given. Partney was absent from work from October 11, 1991 through October 18, 1991. On October 21, 1991, Partney returned to work at the Help Desk. She was again absent from work from October 31 to November 14, 1991. By letter of November 21, Partney was notified that she was terminated, effective November 14, 1991 for failure to call or show up at work.

Partney has five claims currently pending in this action:

(1) a claim for violation of contract; (2) a claim for retaliation in violation of Title VII of the Civil Rights Act of 1964 as amended by the Civil Rights Act of 1991, 42 U.S.C. § 2000e-3(a) ("Title VII"); (3) a claim for retaliation in violation of the Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 621-634 ("ADEA"); (4) a claim for wrongful termination in violation of Oklahoma public policy; and (5) a claim for intentional infliction of emotional distress.

Saint Francis's Motion for Summary Judgment requests this Court to dismiss all of these claims. In addition, its Motion in Limine seeks a declaration from this Court that the Civil Rights Act of 1991 does not apply to the present case. The effective date of the 1991 Act was November 14, 1991.

II. Summary Judgment

A. Standard of Review

Summary judgment pursuant to Fed.R.Civ.P. 56 is appropriate where "there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Celotex Corp. v. Catrett, 477 U.S. 317, 322-23 (1986); Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 250 (1986); Windon Third Oil & Gas v. FDIC, 805 F.2d 342 (10th Cir. 1986). In Celotex, the court stated:

The plain language of Rule 56(c) mandates the entry of summary judgment, after adequate time for discovery and upon motion, against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial.

477 U.S. at 317 (1986). To survive a motion for summary judgment, the nonmovant "must establish that there is a genuine issue of material facts. . . ." The nonmovant "must do more than simply show that there is some metaphysical doubt as to the material facts." Matsushita v. Zenith, 475 U.S. 574, 585 (1986). The evidence and inferences therefrom must be viewed in a light most favorable to the nonmoving party. Conaway v. Smith, 853 F.2d 789, 792 n. 4 (10th Cir. 1988). Unless the Defendants can demonstrate their entitlement beyond a reasonable doubt, summary judgment must be denied. Norton v. Liddel, 620 F.2d 1375, 1381 (10th Cir. 1980).

In Committee for the First Amendment v. Campbell, 962 F.2d 1517, 1521 (10th Cir. 1992), the Tenth Circuit Court of Appeals recently stated concerning summary judgment:

Summary judgment is appropriate if "there is no genuine issue as to any material fact and . . . the moving party is entitled to a judgment as a matter of law." . . . Factual disputes about immaterial matters are irrelevant to a summary judgment determination . . . We view the evidence in a light most favorable to the nonmovant; however, it is not enough that the nonmovant's evidence be "merely colorable" or anything short of "significantly probative."

* * *

A movant is not required to provide evidence negating an opponent's claim . . . [r]ather, the burden is on the nonmovant, who "must present affirmative evidence in order to defeat a properly supported motion for summary judgment." . . . After the nonmovant has had a full opportunity to conduct discovery, this burden falls on the nonmovant even though the evidence probably is in possession of the movant. (Citations omitted.)

B. Breach of Contract--Failure to Post

Plaintiff's breach of contract claim stems from Defendant's alleged failure to post two job openings: (1) a Senior Operations Analyst position in April 1990; and (2) the CSD Manager position in August 1990. Saint Francis' policy on position posting requires the Personnel Department to post "[a]ll job vacancies on designated bulletin boards . . ." with certain exceptions not implicated in this case. Appendix with Exhibits in Support of Defendant's Motion for Summary Judgment, Exhibit P (Docket #51).

1. Senior Operations Analyst--April 1990

Defendant asserts that the Senior Operations Analyst position given to Weaver in April 1990 was posted at multiple locations on numerous occasions during March and April 1990. Appendix with Exhibits in Support of Defendant's Motion for Summary Judgment,

Liguori Affidavit ¶ 2 and Plaintiff's Deposition Exhibits 4-13 (Docket #51). Defendant supports this assertion with the statements of several Saint Francis employees. Id. at Weaver Deposition p. 92, Exhibit C, Crowder Deposition p. 5, and Liguori Affidavit ¶ 2. Furthermore, Defendant maintains that it is Saint Francis' business practice, custom, and routine to post all job vacancies. Id. at Liguori Affidavit ¶ 2. Evidence of a business' habit and routine practice is admissible as evidence under Federal Rule of Evidence 406 in order to establish that a certain event did take place, even if there is no direct evidence of the occurrence. In re Swine Flu Immunization Products, 533 F. Supp. 567 (D. Colo. 1980).

In response, Plaintiff merely alleges that since she had no knowledge of the job opening, it was not posted by Saint Francis. However, Plaintiff fails to support this contention with other evidence. In order for the nonmoving party to defeat a motion for summary judgment, that party must establish that there is a genuine issue of material facts. Celotex, 477 U.S. at 317. Mere conjecture by the nonmoving party is an insufficient basis for denial of summary judgment. Branson v. Price River Coal Co., 853 F.2d 768, 772 (10th Cir. 1988). Plaintiff has failed to present any evidence, other than mere conjecture, which establishes a genuine issue as to whether the Senior Operations Analyst position was posted as required by Saint Francis policy. Therefore, the Court finds that Summary Judgment is proper and hereby GRANTED as to this aspect of the breach of contract claim.

2. CSD Manager--August 1990

Defendant admits that the CSD Manager position was never posted. However, Defendant asserts that its own policy did not necessitate the posting of this position since there was never a job vacancy which needed to be filled. The position was held by Harlan until the departmental reorganization in August 1990, at which time Weaver replaced Harlan as CSD Manager. Plaintiff presents no evidence that compels a denial of summary judgment. Plaintiff asserts only that the job was not posted, but does not address whether hospital policy applies to the reorganization of the CSD. In addition, Plaintiff asserts that since she was never seriously considered for the position, Defendant violated the posting policy. These arguments are without merit, and in light of plaintiff's failure to present any evidence other than mere conjecture, the Court holds that Summary Judgment is also proper and hereby GRANTED as to any posting requirement of the CSD manager position.

C. Discriminatory Retaliation and Wrongful Termination

Partney also asserts a claim of retaliation in violation of Title VII, ADEA, and Oklahoma public policy. This retaliation is allegedly in response to four different activities undertaken by the Plaintiff while she was employed by Saint Francis: (1) an April 1990 statement to Harlan that Weaver's promotion was discriminatory; (2) a July 1990 written grievance; (3) a January 1991 written grievance; and (4) a August 1991 complaint filed with the EEOC.

As a threshold matter, Defendant contends that the April 1990 statement and the January 1991 grievance should not be considered since the Plaintiff failed to exhaust her administrative remedies for these two communications. Defendant's argument is based on the fact that her August 1991 EEOC complaint mentioned only the January 1991 grievance, and failed to mention the other communications as grounds for the retaliation. The Court rejects the Defendant's contention, however, because the January 1991 grievance thoroughly details both of these prior communications. Therefore, these communications are incorporated into the EEOC complaint by reference in the January 1991 grievance.

1. Retaliation Under Title VII and ADEA

Title VII provides that "[i]t shall be an unlawful employment practice for an employer to discriminate against any [employee] . . . because [the employee] has opposed any practice made an unlawful employment practice by this subchapter, or because [the employee] has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this subchapter. 42 U.S.C. § 2000e-3(a); see also 29 U.S.C. § 623(d) (stating almost identical prohibition under ADEA). In determining whether an employer has retaliated against its employee in violation of Title VII or ADEA, a court must assess the proof of discriminatory treatment claims using a three-stage procedure. McDonnell Douglas Corp. v. Green, 411 U.S. 792, 802-04 (1973); Texas Dept. of Community Affairs v. Burdine, 450 U.S. 248, 252-53 (1981); Sauers v. Salt Lake County, 1 F.3d 1122, 1128 (10th Cir.

1993) (citing Sorenson v. City of Aurora, 984 F.2d 349, 351 (10th Cir. 1993)); Zebedeo v. Martin E. Segal Co., 582 F. Supp. 1394, 1412 n.7 (D. Conn. 1984) (stating three-prong McDonnell Douglas test applies to ADEA retaliation case). In order to support a claim of retaliation,

[a] plaintiff must first establish a prima facie case of retaliation. If a prima facie case of retaliation is established, then the burden of production shifts to the defendant to produce a legitimate, nondiscriminatory reason for the adverse action. If evidence of a legitimate reason is produced, the plaintiff may still prevail if she demonstrates the articulated reason was a mere pretext for discrimination. the overall burden of persuasion remains on the plaintiff.

Sauers, 1 F.3d at 1128.

Defendant asserts that Plaintiff has failed in the first stage of this procedure by failing to establish a prima facie case of retaliation, and as a result summary judgment should be granted to Defendant. In order to make a prima facie case of retaliation,⁵ a plaintiff must prove three elements: "(1) protected opposition to discrimination or participation in a proceeding arising out of discrimination; (2) adverse action by the employer; and (3) a causal connection between the protected activity and the adverse action." Id. (citing Williams v. Rice, 983 F.2d 177, 181 (10th Cir. 1993)).

While Defendant contends that some of its actions were not adverse, it cannot be questioned that the ultimate act of termination is an adverse action. Therefore, the second element of a prima facie case of retaliation is not at issue in this case. The

⁵A prima facie case of retaliation under Title VII and ADEA is established in the same manner.

remaining two elements, however, are at the center of this controversy.

A plaintiff must participate in either protected opposition to discrimination or a proceeding arising out of discrimination to satisfy the first element of a prima facie case of retaliation. Participation in a proceeding is satisfied when a plaintiff institutes formal external proceedings against the employer for alleged discrimination. See Archuleta v. Colorado Dept. of Institutions, 936 F.2d 483, 486 (10th Cir. 1991) (involving a complaint of discrimination filed with the state Personnel Board); Blizzard v. Newport News Redevelopment and Housing Authority, 670 F. Supp. 1337 (E.D. Va. 1984) (holding that participation clause grants absolute privilege from retaliation for filing claim with EEOC). On the other hand, protected opposition is a less formal requirement, which occurs when an employee makes her belief that an act or policy of the employer is discriminatory known to the employer. See McCluney v. Jos. Schlitz Brewing Co., 728 F.2d 924, 927 (7th Cir. 1984); see also Jurado v. Eleven-Fifty Corp., 813 F.2d 1406 (9th Cir. 1987) (holding that opposition which addressed employer's actions for personal reasons and not as discriminatory conduct was not protected opposition); E.E.O.C. v. Crown Zellerbach Corp., 720 F.2d 1009, 1012-13 (9th Cir. 1983) (holding that letter protesting unspecified "racism" and "discrimination" in employer's practices is protected opposition activity).

The third requirement of a prima facie case of retaliation requires the existence of a causal connection between the protected

activity and the adverse action. In order to establish a prima facie causal connection, the plaintiff "must show that the individual who took adverse action against him knew of the employee's protected activity." Williams v. Rice, 983 F.2d 177, 181 (10th Cir. 1993) (citing Anderson v. Phillips Petroleum Co., 861 F.2d 631, 635 (10th Cir. 1988)).

a. April 1990 Statement

After Weaver was promoted to the position of Senior Operations Analyst in April 1990, Plaintiff complained to the current CSD Manager, Harlan, that Weaver's hiring was discriminatory. This specific complaint about discrimination is protected opposition to discrimination and satisfies the first element of a prima facie case of retaliation. However, Defendant maintains that Harlan never informed anyone about Plaintiff's complaint. Appendix with Exhibits in Support of Defendant's Motion for Summary Judgment, Harlan Affidavit ¶ 4 (Docket # 51). Plaintiff does not respond to this allegation, and fails to establish a genuine issue as to this material fact. Therefore, a prima facie case of retaliation under Title VII or ADEA cannot be satisfied with respect to Plaintiff's April 1990 statement to Harlan, and Summary Judgment is GRANTED in that regard.

b. July 1990 Grievance

In July 1990, Plaintiff filed a written grievance concerning problems she perceived in the CSD. Appendix with Exhibits in Support of Defendant's Motion for Summary Judgment, Exhibit D (Docket #51). This grievance contains no mention of the word

discrimination or any reference which establishes that discrimination had occurred or even that Plaintiff believed that discrimination had occurred. This grievance dealt only with Plaintiff's perceived communication problems in the CSD and requested specific information concerning complaints which had been filed against her. Such a grievance does not constitute protected opposition or participation in a proceeding as required by the first element of a prima facie case of retaliation. Plaintiff responds that she was told not to use the word "discrimination," but the grievance has no semblance of opposition to discrimination. Since Plaintiff has failed to establish that a genuine issue exists as to whether she participated in protected opposition, Summary Judgment is hereby GRANTED with respect to the July 1990 grievance for both the Title VII and ADEA retaliation claims.

c. January 1991 Grievance

Plaintiff filed her second written grievance in January 1991. Appendix with Exhibits in Support of Defendant's Motion for Summary Judgment, Exhibit E (Docket #51). Again, this grievance contains no mention of the word discrimination or any reference which establishes that discrimination had occurred or even that Plaintiff believed that discrimination had occurred. Plaintiff's second grievance is addressed to "improper protocol by 2 of [her] peers, having [her] position and abilities undermined, the loss of communication . . . [with her] superiors . . . , and other incidents." Defendant's Exhibit E. Plaintiff never mentioned that these problems were the result of discriminatory acts by Saint

Francis employees, and thus cannot be considered protected opposition to discrimination. Since Plaintiff has failed to establish that a genuine issue exists as to whether she participated in protected opposition, Summary Judgment is hereby GRANTED with respect to the January 1991 grievance for both the Title VII and ADEA retaliation claims.

d. August 1991 EEOC Charge

In August 1991, Plaintiff filed a formal complaint with the EEOC. Appendix with Exhibits in Support of Defendant's Motion for Summary Judgment, Exhibit J (Docket #51). This complaint asserted that Plaintiff had been discriminated against in retaliation of her January 1991 grievance. Plaintiff's formal charge of discrimination to the EEOC constitutes participation in a proceeding arising out of discrimination.⁶ See Archuleta v. Colorado Dept. of Institutions, 936 F.2d 483, 486 (10th Cir. 1991) (involving a complaint of discrimination filed with the state Personal Board). The third element of Plaintiff's prima facie case of retaliation also presents no problem, since Defendant was fully aware of Plaintiff's formal action against Saint Francis. Summary Judgment is hereby DENIED with respect to Plaintiff's claims of

⁶Plaintiff's EEOC complaint alleges that she was retaliated against in response to her January 1991 grievance. Today, this Court holds that her January 1991 grievance does not constitute protected opposition. However, the filing of the formal complaint with the EEOC does constitute participation in a proceeding arising out of discrimination, since it is possible for retaliation to occur if for no other reason than because the complaint was filed with the EEOC, even though the underlying reason was not a valid one.

retaliation under Title VII and ADEA in response to her filing an EEOC charge of discrimination.⁷

2. Wrongful Termination in Violation of Oklahoma Public Policy

In Burk v. K-Mart Corp., 770 P.2d 24 (Okla. 1989), the Oklahoma Supreme Court held that while Oklahoma does not recognize an implied obligation of good faith and fair dealing in reference to termination in any employment-at-will contract, Oklahoma does recognize a limited public policy exception to the terminable-at-will rule as an actionable tort claim in cases in which the discharge is contrary to a clear mandate of public policy. "The circumstances which present an actionable tort claim under Oklahoma law is where an employee is discharged for refusing to act in violation of an established and well-defined public policy or for performing an act consistent with a clear and compelling public policy." Id. at ?.

Plaintiff asserts that her dismissal from Saint Francis is in retaliation to her charge of discrimination filed with the EEOC. The right of an employee to file such charges with the EEOC is an act consistent with a clear and compelling public policy.

⁷Defendant moves for Summary Judgment only on the grounds that Plaintiff has failed to establish a prima facie case of retaliation. This has been satisfied sufficiently to prevent a grant of summary judgment. This claim must now proceed to steps two and three of procedure set forth by the Supreme Court in Texas Dept. of Community Affairs v. Burdine, 450 U.S. 248, 252-53 (1981) and McDonnell Douglas Corp. v. Green, 411 U.S. 792, 802-04. This Court need not address these steps on this motion for summary judgment. Should Defendant satisfy the requirement of step two, a question of fact will have been created, which is appropriate for determination by the jury.

Plaintiff has sufficiently established that a genuine issue exists as to whether she was terminated in response to the EEOC complaint. Whether her termination was based on valid or retaliatory reasons is a question of fact to be determined by the jury. Summary Judgment is therefore DENIED as to Plaintiff's claim of wrongful termination in violation of Oklahoma public policy.

D. Intentional Infliction of Emotional Distress

In Eddy v. Brown, 715 P.2d 74 (Okla. 1986), the Oklahoma Supreme Court held that the plaintiff must demonstrate that she suffers from severe emotional distress resulting from the defendant's extreme or outrageous conduct in order to establish the tort of intentional infliction of emotional distress.

'Extraordinary transgression of the bounds of civility is required.' Liability cannot be premised on 'mere insults, indignities, threats, annoyances, petty oppressions or other trivialities . . . plaintiffs must necessarily be expected and required to be hardened to a certain amount of rough language, and to occasional acts that are definitely inconsiderate and unkind'. . . . it would be indeed unfortunate if the law were to close all the safety valves through which irascible tempers might legally blow off steam.'

Merrick v. Northern Natural Gas Co., 911 F.2d 426, 432 (10th Cir. 1990) (quoting Eddy, 715 P.2d at 76-77).

In the present case, the record is devoid of any indication that Defendant's actions rise to the level of extreme or outrageous conduct. A plaintiff who takes offense to less than outrageous conduct cannot expect to succeed in a tort claim for intentional infliction of emotional distress. Accordingly, Summary Judgment is hereby GRANTED as to Plaintiff's claim for intentional infliction of emotional distress.


III. Motion in Limine

Defendant seeks a declaration from the Court that the Civil Rights Act of 1991 does not apply to the current lawsuit. The 1991 amendments to the Civil Rights Act went into effect on November 21, 1991. Defendant terminated Plaintiff by letter dated November 21, 1991, but her termination was made retroactive to November 14, 1991. Because of the timing and circumstances of Plaintiff's termination, Defendant's Motion in Limine is hereby RESERVED by the Court until after a presentation of evidence thereto.

IV. Conclusion

Defendant's Motion for Summary Judgment is GRANTED with respect to Plaintiff's (1) entire breach of contract claim, (2) retaliation claim as alleged to be caused by Plaintiff's April 1990 statement, July 1990 grievance, and January 1991 grievance, and (3) intentional infliction of emotional distress claim. Defendant's Motion Summary Judgment is DENIED with respect to Plaintiff's (1) claim of retaliation as alleged to be caused by her August 1991 EEOC complaint and (2) claim of wrongful discharge in violation of Oklahoma public policy. Furthermore, Defendant's Motion in Limine is RESERVED until presentation of evidence at trial.

IT IS SO ORDERED THIS 5th DAY OF APRIL, 1994.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

DATE APR 07 1994

FILED

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

APR - 6 1994

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT

IN RE SUBPOENA TO CUSTODIAN OF)
RECORDS AND FOR PRODUCTION OF) Case No. 94-C-112-B
DOCUMENTS ISSUED OUT OF THIS)
COURT TO CENTRILIFT, INC.)

ORDER

NOW ON THIS 28th day of March, 1994, the Motion to Quash Subpoena filed on behalf of Centrilift, Inc., a division of Baker-Hughes Oilfield Operations ("Centrilift") on February 8, 1994, came on for hearing. Following presentation of evidence by movant Centrilift and the argument of counsel for Centrilift and counsel for Frankenburg, Inc., the party serving the subject subpoena, the Court finds as follows:

That the Motion to Quash is granted in part and denied in part and that Centrilift shall appear at a deposition on written questions on or before Monday, May 2, 1994, and provide documents in response to the subject subpoena for the time period November 1992 through June 1993 under the following terms and conditions:

1. Documents showing a relationship between or among the following persons or entities identified in the subpoena shall be produced to Frankenburg: Janina Karemae, David Charles Fishel, Angela F. Fishel, Wellmax, Inc., L.O. Scandinavia, Ltd, Juri Oiemets, Max International, Ltd., Vitali G. Schmidt, Vagit Y. Alekperov, Ralif R. Safin, Lukoil Scandinavia, Lukoil Estonia, Juhan Toel, N & J Team, Union Bank of Finland, Ltd., Risto Jarvinen, and Henry Nyholm;

2. Documents evidencing the date equipment was supplied to

any of the entities or persons set forth in paragraph number 1 above, such as correspondence, invoices, purchase orders, or quotations, shall be produced to Frankenburg subject to the provision that all information relating to equipment specifications, equipment configuration, price of individual items and type and quantity of equipment provided shall be redacted from such documents; and

3. Documents showing payment to Centrilift for equipment purchased by any individual or entity identified in paragraph number 1 above, subject to redaction of information showing any banking relationship of Centrilift or any of its related entities with a financial institution. In this regard, documents such as letters of credit should be provided; however, the information appearing on such documents is required only to show the originating and/or issuing bank and receipt of money; specifically excluded from production are documents showing the processing of funds by or on behalf of Centrilift, correspondence between Centrilift and banks other than the originating and/or issuing bank, or documents containing information which only relates to Centrilift's banking relationships or financial information. In the event a document exists which includes information that is to be disclosed and information that is not to be disclosed, the protected information shall be redacted and the document produced.

4. The documents shall be produced on or before Monday, May 2, 1994.

The Court specifically finds that there is no reason for copies of any documents produced subject to this Order to be used other than for the litigation currently pending in the United States District Court for the Southern District of Texas, previously styled as *Frankenburg, Inc. vs. David Charles Fishel, Angela F. Fishel and Wellmax, Inc.*, currently styled as *Frankenburg, Inc. and Frankenburg Est. vs. David Charles Fishel, Angela F. Fishel, Wellmax, Inc., The Estate of Juri Oiemets, Deceased, Lukoil Oil Concern, Lukoil Scandinavia As, Vagit Alekperov, Vitali Schmidt, Ralif Safin, L. O. Scandinavia, L. O. Scandinavia Ltd and Max International Ltd*, Case No. H-93-3216, (the "Litigation"). Therefore, copies of Centrillift documents shall not be used or disclosed for any purpose other than bona fide trial preparation and trial of the Litigation.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Motion to Quash filed on behalf of Centrillift, Inc. be and the same is hereby denied in part and granted in part, with documents to be produced in response to the subpoena as set forth above, subject to the terms and conditions contained in this Order.

DATED: 4/5/94.

/s/ JOHN LEO WAGNER
UNITED STATES MAGISTRATE JUDGE

The Honorable John L. Wagner
United States Magistrate Judge

ENTERED
APR 07 1994
DATE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED
APR - 5 1994

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

IN RE: GALAXY ENTERPRISES,)
INC.,)
)
Debtor,)
)
AMOS BAKER,)
)
Appellant,)
v.)
)
)
RESOLUTION TRUST CO.,)
ET AL.,)
Appellees.)

Case No. 93-C-255-B

ORDER

On December 28, 1993, Appellant was ordered to arrange for substitute counsel or notify the court that he intends to represent himself within thirty days of the date of the order or the court would dismiss the case for failure to prosecute. Mark H. Craige has certified that the order was mailed to Appellant on January 6, 1994. Appellant has not responded.

Pursuant to Rule 41(b) of the Federal Rules of Civil Procedure, this action is dismissed for failure to prosecute.

Dated this 5th day of Apr, 1994.

S/ THOMAS R. BRETT

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

ENTERED ON DOCKET
APR 07 1994
DATE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

DENNIS S. WALDON,
Petitioner,
vs.
MICHEAL CODY,
Respondent.

No. 93-C-0075-B

FILED

APR - 6 1994

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORDER

At issue before the Court are Petitioner's application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, Respondent's Rule 5 response, Petitioner's reply, and Petitioner's motion requesting an order setting a hearing. The Court determines that an evidentiary hearing is not necessary, as the issues can be resolved on the basis of the record. See Townsend v. Sain, 372 U.S. 293, 318 (1963).

I. BACKGROUND

On September 19, 1988, Petitioner pleaded guilty to attempted robbery with a dangerous weapon, after former conviction of a felony, in the District Court of Tulsa County, State of Oklahoma, Case No. CRF-88-1487. The trial court sentenced Petitioner to ten years imprisonment and then advised him of his right to an appeal, of the proper procedure for procuring an appeal from a plea of guilty, and of the right to appointed counsel on appeal. The trial court specifically informed Petitioner that he would lose his appeal rights unless he filed (1) a written motion to withdraw his guilty plea within ten days of sentencing, (2) a written notice of

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intent to appeal within ten days from the denial of the motion to withdraw his plea, and (3) a petition in error in the Court of Criminal Appeals within ninety days from the date of sentencing. (Response, ex. A, tr. at 12-13.)

Petitioner did not move to withdraw his guilty plea, but filed an application for post-conviction relief in the District Court of Tulsa County. The district court denied relief, finding that Petitioner had waived the issues he sought to raise in his petition for post-conviction relief because he had taken no steps to perfect an appeal. (Response, ex. B.) The Oklahoma Court of Criminal Appeals affirmed, noting that Petitioner had not requested an appeal out of time. (Id., ex. C.) Petitioner then filed a second application for post-conviction relief in the District Court of Tulsa County. (Id., ex. D.) That application was ultimately denied on September 21, 1990, following a remand and two orders from the Court of Criminal appeals requiring correction. (Id., ex. D, E, F, G, H, I, J.) The District Court held that Petitioner should not be allowed a direct appeal out-of-time because Petitioner's failure to file a direct appeal of his conviction was his own fault.

Next Petitioner requested an appeal out of time with the Court of Criminal Appeals. (Id., ex. K.) On October 4, 1994, the Court of Criminal Appeals affirmed the second denial of post-conviction relief, holding that Petitioner's failure to offer sufficient reason for his failure to attempt to withdraw his guilty plea or to otherwise appeal his conviction "precluded him from raising issues

which could have been raised in a direct appeal." (Id., ex. L.)

In January 1993, Petitioner filed the present application for a writ of habeas corpus. He asserted his sentence was improperly enhanced by prior unconstitutional guilty plea convictions, and his trial counsel provided ineffective assistance of counsel. In an attempt to excuse his procedural default, Petitioner argued that the district court did not advise him how to appeal a guilty plea. [Petition, docket #1 at 3.]

Respondent objected to Petitioner's application, arguing that the Petitioner had procedurally defaulted his claims; that the Oklahoma Court of Criminal Appeals rested its decision on an adequate and independent state procedural bar; and that Petitioner failed to show cause and prejudice, or a fundamental miscarriage of justice to excuse his procedural default. In his reply, Petitioner only addressed the merits of his claims, and did not present any reasons why he failed to appeal his guilty plea.

II. DISCUSSION

The doctrine of procedural default prohibits a federal court from considering a specific habeas claim where the state highest court declined to reach the merits of that claim on state procedural grounds, unless a petitioner "demonstrate[s] cause for the default and actual prejudice as a result of the alleged violation of federal law, or demonstrate[s] that failure to consider the claim[] will result in a fundamental miscarriage of justice." Coleman v. Thompson, 111 S. Ct. 2546, 2565 (1991); see

also Gilbert v. Scott, 941 F.2d 1065, 1067-68 (10th Cir. 1991).

The cause standard requires a petitioner to "show that some objective factor external to the defense impeded . . . efforts to comply with the state procedural rules." Murray v. Carrier, 477 U.S. 478, 488 (1986). Examples of such external factors include the discovery of new evidence, a change in the law, and interference by state officials. Id. As for prejudice, a petitioner must show "'actual prejudice' resulting from the errors of which he complains." United States v. Frady, 456 U.S. 152, 168 (1982). A "fundamental miscarriage of justice" instead requires a petitioner to demonstrate that he is "actually innocent" of the crime of which he was convicted. McCleskey v. Zant, 111 S. Ct. 1454, 1470 (1991).

Petitioner does not dispute that the decision of the Oklahoma Court of Criminal Appeals rested upon a state procedural default. He, however, has not offered any facts that would demonstrate cause and prejudice under the Coleman standard for his failure to move to withdraw his guilty plea. Petitioner's attempt to demonstrate cause by stating that he was not informed of how to appeal his guilty plea lacks any merit. The transcript of the combined plea and sentencing hearing indisputably shows that the trial court clearly informed Petitioner of his appeal rights, of the proper procedure for procuring a direct appeal from a plea of guilty, and of the right to appointed counsel on appeal. The trial court also informed Petitioner that "[i]f you let any of those time periods go by without filing those instruments you would--in all likelihood

...--lose any appeal rights that you have." [Response, ex. A, tr. at 12-13).

The fact that Petitioner is a layman does not constitute sufficient cause. See Rodriguez v. Maynard, 948 F.2d 684, 688 (10th Cir. 1991) (petitioner's pro se status and lack of awareness and training of legal issues do not constitute sufficient cause under the cause and prejudice standard). Nor does this case present one of those "extraordinary instances when a constitutional violation probably has caused the conviction of one innocent of the crime." McCleskey, 111 S. Ct. at 1470. Therefore, the Court denies Petitioner's application for a writ of habeas corpus as procedurally barred.

The Court also dismisses the Attorney General as a party in this case because the Petitioner is presently in custody pursuant to the state judgment in question. See Rule 2(a) and (b) of the Rules Governing Section 2254 Cases.

ACCORDINGLY, IT IS HEREBY ORDERED:

- (1) That this petition for a writ of habeas corpus be **denied**;
- (2) That Petitioner's motion for a hearing [docket #8] be **denied**; and
- (3) That the Attorney General for the State of Oklahoma be **dismissed** as a party in this case.

IT IS SO ORDERED this 6th day of April, 1994.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

ENTERED ON DOCKET

DATE 4-6-94

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

ONE 1990 FORD TRUCK,
VIN 1FTJX35G8LKB25988,

and

ONE 1990 BUICK REATTA
2-DOOR,
VIN 1G4EC13CBLB901307,

and

ONE 1991 FORD TAURUS GL,
VIN 1FACP52U9MG184928,

Defendants.

CIVIL ACTION NO. 93-C-792-E

FILED

APR 8 1994
Richard M. Lawrence, Clerk
U.S. District Court
Northern District of Oklahoma

**JUDGMENT OF FORFEITURE
BY DEFAULT AND BY STIPULATION**

This cause having come before this Court upon the plaintiff's Motion for Judgment of Forfeiture by Default and by Stipulation against the defendant vehicles and all entities and/or persons interested in the defendant vehicles, the Court finds as follows:

The verified Complaint for Forfeiture In Rem was filed in this action on the 3rd day of September 1993, alleging that the defendant vehicles were subject to forfeiture pursuant to 21 U.S.C. § 881, because they were furnished, or intended to be furnished, in exchange for a controlled substance, or were

purchased with proceeds traceable to such an exchange, in violation of the drug laws of the United States.

Warrants of Arrest and Notices In Rem were issued on the 3rd day of September 1993, by the Clerk of this Court to the United States Marshal for the District of Nevada for the seizure and arrest of the defendant vehicles and for publication in the District of Nevada, and to the United States Marshal for the Northern District of Oklahoma for publication.

On the 29th day of October 1993, the United States Marshals Service served a copy of the Complaint for Forfeiture In Rem, the Warrant of Arrest and Notice In Rem, and the Order on each of the defendant vehicles, to-wit:

ONE 1990 FORD TRUCK,
VIN 1FTJX35G8LKB25988,

and

ONE 1990 BUICK REATTA 2-DOOR,
VIN 1G4EC13CBLB901307

and

ONE 1991 FORD TAURUS GL,
VIN 1FACP52U9MG184928.

James H. Van Over, a/k/a James Hobart Van Over and Philip C. Shumway, was determined to be the only potential claimant in this action with possible standing to file a claim herein, and was served in this action by the United States Marshals Service on the 26th day of October 1993. That the 1991 Ford Taurus is titled in Robert J. McPeek, Jr., however, James H.

Van Over is the true and lawful owner of this vehicle. Robert J. McPeek, Jr., has assigned the title to the Ford Taurus to the United States of America. Because of this circumstance of nominee ownership and the assignment of title to the United States of America, Robert J. McPeek, Jr., was not considered to be a potential claimant in this action and was not served with Summons in this action.

USMS 285s reflecting the service upon the defendant vehicles and upon James H. Van Over are all on file herein. On March 29, 1994, James H. Van Over executed a Stipulation for Forfeiture of the defendant vehicles.

All persons or entities interested in the defendant vehicles were required to file their claims herein within ten (10) days after service upon them of the Warrants of Arrest and Notices In Rem, publication of the Notices of Arrest and Seizure, or actual notice of this action, whichever occurred first, and were required to file their answer(s) to the Complaint within twenty (20) days after filing their respective claim(s).

No other persons or entities upon whom service was effected more than thirty (30) days ago have filed a Claim, Answer, or other response or defense herein.

The United States Marshals Service gave public notice of this action and arrest to all persons and entities by advertisement in the Tulsa Daily Commerce and Legal News, a

newspaper of general circulation in the district in which this action is pending on December 2, 9, and 16, 1993, and in the Las Vegas Review Journal, a newspaper of general circulation in the District of Nevada, the district in which the vehicles are located, on November 12, 15, and 22, 1993. Proof of Publication was filed January 6, 1994.

No other claims in respect to the defendant vehicles have been filed with the Clerk of the Court, and no other persons or entities have plead or otherwise defended in this suit as to said defendant vehicles, and the time for presenting claims and answers, or other pleadings, has expired; and, therefore, default exists as to the defendant vehicles, and all persons and/or entities interested therein, except James H. Van Over, who executed Stipulation for Forfeiture on March 29, 1994. This Stipulation for Forfeiture was filed March 30, 1994.

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED that Judgment be entered against the following-described defendant vehicles:

**ONE 1990 FORD TRUCK,
VIN 1FTJX35G8LKB25988,**

and

**ONE 1990 BUICK REATTA 2-DOOR,
VIN 1G4EC13CBLB901307**

and

**ONE 1991 FORD TAURUS GL,
VIN 1FACP52U9MG184928,**

and that such vehicles be, and they are, forfeited to the United States of America for disposition according to law.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED by the Court that the United States Marshals Service shall deliver the defendant vehicles to the United States Customs Service, as follows:

1990 FORD TRUCK,
VIN 1FTJX35G8LKB25988,

UNITED STATES
CUSTOMS SERVICE/
OFFICE OF ENFORCEMENT,
LAS VEGAS, NEVADA

1990 BUICK REATTA 2-DOOR,
VIN 1G4EC13CBLB901307

UNITED STATES
CUSTOMS SERVICE/
OFFICE OF ENFORCEMENT,
OKLAHOMA CITY,
OKLAHOMA

ONE 1991 FORD TAURUS GL,
VIN 1FACP52U9MG184928,


UNITED STATES
CUSTOMS SERVICE/
OFFICE OF ENFORCEMENT
OKLAHOMA CITY,
OKLAHOMA,

for official law enforcement use.

BY JAMES O. ELLISON

JAMES O. ELLISON, Chief Judge of the
United States District Court

APPROVED:


CATHERINE DEPEW HART
Assistant United States Attorney

N:\UDD\CHOOK\FC\VANOV11\03800

ENTERED ON DOCKET

DATE 4-6-94

FILED

APR - 6 1994

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

VEO WALKER, JR.,

Plaintiff,

v.

K-MAC ENTERPRISE, INC.,

Defendants.

Case No. 93-C-600E

STIPULATION OF DISMISSAL WITH PREJUDICE

Plaintiff and Defendant, by and through their respective attorneys have reached a mutually satisfactory settlement regarding Plaintiff's claims herein. Therefore, pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure, the parties stipulate that this action should be dismissed with prejudice with each party to bear its own costs and attorneys' fees.

DATED this 25 day of March, 1994.

Respectfully submitted,

By: 

Jeff Nix
2121 South Columbia
Suite 710
Tulsa, Oklahoma 74114

ATTORNEY FOR PLAINTIFF

HALL, ESTILL, HARDWICK, GABLE,
GOLDEN & NELSON, P.C.

By: 

J. Patrick Cremin, OBA 2013
Steven A. Broussard, OBA 12582
4100 Bank of Oklahoma Tower
One Williams Center
Tulsa, Oklahoma 74172
(918) 588-2700

ATTORNEYS FOR DEFENDANT

ENTERED ON DOCKET

DATE

4-6-94

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DAVID SANDERS; LENA MAE BOYD;
TULSA URBAN RENEWAL AUTHORITY
n/k/a TULSA URBAN DEVELOPMENT
AUTHORITY a/k/a TULSA
DEVELOPMENT AUTHORITY;
COUNTY TREASURER, Tulsa
County, Oklahoma; BOARD OF
COUNTY COMMISSIONERS, Tulsa
County, Oklahoma,

Defendants.

FILED

APR 5 1994

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

CIVIL ACTION NO. 94-C-37-E

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 5 day
of April, 1994. The Plaintiff appears by Stephen C.
Lewis, United States Attorney for the Northern District of
Oklahoma, through Phil Pinnell, Assistant United States Attorney;
the Defendant, Tulsa Urban Renewal Authority nka Tulsa Urban
Development Authority aka Tulsa Development Authority, appears
through its attorney, Doris L. Fransein; the Defendant, County
Treasurer, Tulsa County, Oklahoma, appears by J. Dennis Semler,
Assistant District Attorney; the Defendant, Board of County
Commissioners, Tulsa County, Oklahoma, appears not, having
previously claimed no right, title or interest in the subject
property; and the Defendants, David Sanders and Lena Mae Boyd,
appear not, but make default.

The Court, being fully advised and having examined the
court file, finds that the Defendant, David Sanders, was served

with Summons and Complaint on February 16, 1994; the Defendant, Lena Mae Boyd, was served with Summons and Complaint on February 16, 1994; the Defendant, Tulsa Urban Renewal Authority nka Tulsa Urban Development Authority aka Tulsa Development Authority, acknowledged receipt of Summons and Complaint on January 21, 1994; the Defendant, County Treasurer, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on February 3, 1994; and the Defendant, Board of County Commissioners, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on January 18, 1994.

It appears that the Defendant, County Treasurer, Tulsa County, Oklahoma, filed his Answer on February 15, 1994; the Defendant, Board of County Commissioners, Tulsa County, Oklahoma, filed its Answer on February 7, 1994, disclaiming any right, title or interest in the subject property; the Defendant, Tulsa Urban Renewal Authority nka Tulsa Urban Development Authority aka Tulsa Development Authority, filed its Answer and Cross-Complaint on January 28, 1994; and the Defendants, David Sanders and Lena Mae Boyd, have failed to answer and their default has therefore been entered by the Clerk of this Court.

The Court further finds that this is a suit based upon a certain mortgage note and for foreclosure of a mortgage securing said mortgage note upon the following described real property located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Nine (9), Block Nine (9), SUBURBAN ACRES
SECOND ADDITION to the City of Tulsa, County
of Tulsa, State of Oklahoma.

The Court further finds that on October 30, 1974, the Defendant, David Sanders, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, now known as Secretary of Veterans Affairs, his mortgage note in the amount of \$9,000.00, payable in monthly installments, with interest thereon at the rate of 9.5 percent (9.5%) per annum.

The Court further finds that as security for the payment of the above-described note, the Defendant, David Sanders, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, now known as Secretary of Veterans Affairs, a mortgage dated October 30, 1974, covering the above-described property. Said mortgage was recorded on November 12, 1974, in Book 4144, Page 161, in the records of Tulsa County, Oklahoma.

The Court further finds that the Defendant, David Sanders, made default under the terms of the aforesaid note and mortgage by reason of his failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendant, David Sanders, is indebted to the Plaintiff in the principal sum of \$6,260.35, plus interest at the rate of 9.5 percent per annum from September 1, 1993 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action in the amount of \$7.44 for fees for service of Summons and Complaint.

The Court further finds that the Defendant, County Treasurer, Tulsa County, Oklahoma, has a lien on the property which is the subject matter of this action by virtue of personal property taxes for 1993 in the amount of \$7.00 which became a lien on the property. Said lien is inferior to the interest of the Plaintiff, United States of America.

The Court further finds that the Defendant, Board of County Commissioners, Tulsa County, Oklahoma, claims no right, title or interest in the subject real property.

The Court further finds that the Defendants, David Sanders and Lena Mae Boyd, are in default and have no right, title or interest in the subject real property.

The Court further finds that the Defendant, Tulsa Urban Renewal Authority nka Tulsa Urban Development Authority aka Tulsa Development Authority, has a lien on the property which is the subject matter of this action by virtue of a Promissory Note and Mortgage dated August 27, 1985, of which mortgage is recorded in the records of Tulsa County, Oklahoma in Book 4888 at Page 1940. The Court further finds that the Cross-Claimant, prays for judgment in rem against the Defendants, Lena Mae Boyd and David Sanders, in the amount of \$6,500.00 with accrued interest at the judgment rate from and after September 1, 1993, together with a reasonable attorney's fee in the sum of \$975.00, plus costs. Said lien is inferior to the interest of the Plaintiff, United States of America.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment against the Defendant, David

Sanders, in the principal sum of \$6,260.35, plus interest at the rate of 9.5 percent per annum from September 1, 1993 until judgment, plus interest thereafter at the current legal rate of 4.51% percent per annum until paid, plus the costs of this action in the amount of \$7.44 for fees for service of Summons and Complaint, plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, County Treasurer, Tulsa County, Oklahoma, have and recover judgment in the amount of \$7.00 for personal property taxes for the year 1993, plus the costs of this action.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, Board of County Commissioners, Tulsa County, Oklahoma, claims no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, David Sanders and Lena Mae Boyd, have no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, Tulsa Urban Renewal Authority nka Tulsa Urban Development Authority aka Tulsa Development Authority, have and recover judgment in rem against the Defendants, Lena Mae Boyd and David Sanders, in the amount of \$6,500.00 with accrued interest at the judgment rate from and after September 1, 1993, together with a reasonable attorney's fee in the sum of \$975.00, plus costs.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendant, David Sanders, to satisfy the money judgment of the Plaintiff herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell, according to Plaintiff's election with or without appraisement, the real property involved herein and apply the proceeds of the sale as follows:

First:

In payment of the costs of this action accrued and accruing incurred by the Plaintiff, including the costs of sale of said real property;

Second:

In payment of the judgment rendered herein in favor of the Plaintiff;

Third:

In payment of Tulsa Urban Renewal Authority nka Tulsa Urban Development Authority aka Tulsa Development Authority, for judgment in rem against the Defendants, Lena Mae Boyd and David Sanders, in the amount of \$6,500.00 with accrued interest at the judgment rate from and after September 1, 1993, together with a reasonable attorney's fee in the sum of \$975.00, plus costs.

Fourth:

In payment of Defendant, County Treasurer, Tulsa County, Oklahoma, in the amount of \$7.00 for personal property taxes plus costs and interest which are currently due and owing.

The surplus from said sale, if any, shall be deposited with the Clerk of the Court to await further Order of the Court.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described real property, under and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the Complaint, be and they are forever barred and foreclosed of any right, title, interest or claim in or to the subject real property or any part thereof.

BY JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

APPROVED:

STEPHEN C. LEWIS
United States Attorney

Phil Pinnell

PHIL PINNELL, OBA #7169
Assistant United States Attorney
3900 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463

J. Dennis Semler

J. DENNIS SEMLER, OBA #8076
Assistant District Attorney
Attorney for Defendant, County Treasurer,
Tulsa County, Oklahoma

Doris L. Fransein

DORIS L. FRANSEIN, OBA #3000
Attorney for Tulsa Urban Renewal Authority
nka Tulsa Urban Development Authority
aka Tulsa Development Authority

Judgment of Foreclosure
Civil Action No. 94-C-37-E

PP\esf

DATE 4-6-94

JMH/mlp

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

RANDALL DEAN JOHNSON, and
KERRI LE-ANN JOHNSON,
Plaintiffs,

MAR 31 1994

vs.

Richard M. Lawrence, Court Clerk
U.S. DISTRICT COURT

BURLINGTON NORTHERN RAILWAY
COMPANY, a Delaware corporation,
Defendant.

Case No. 90-C-0004-E

JUDGMENT

Now on this 31st day of March, 1994, this Court has before it the jury verdict given in open court August 30, 1993, in favor of the plaintiffs Randall Dean Johnson and Kerri Le-Ann Johnson and against the defendant Burlington Northern Railway Company.

Evidence was presented, arguments were made by counsel, instructions were read and passed to the jury and a unanimous verdict was reached upon special interrogatories. The jury found the parties and a non-party comparatively negligent as follows:

Burlington Northern Railway Company	20%
Randall Dean Johnson	13%
Bassichis Company	67%

Without regard to percentages of negligence previously assessed, the jury found plaintiff, Randall Dean Johnson's damages to be \$865,714.00. Plaintiff, Kerri Le-Ann Johnson's damages were found to be \$0.00.

Plaintiffs are entitled to have pre-judgment interest added to the verdict. This Court finds that this case was brought December 8, 1989, in the District Court of Creek County, Oklahoma, and was


removed to this federal district court. The Court finds that the state pre-judgment interest rates have been as follows:

1989	10.92%
1990	12.35%
1991	11.71%
1992	9.58%
1993	7.42%
1994	6.99%

The Court finds that Plaintiffs are entitled to interest on the judgment at these varied rates from the date this case was filed in state court to the date of this Judgment. The pre-judgment interest shall not compound yearly. The Judgment including pre-judgment interest shall bear post-judgment interest at the prevailing federal rate as of the date of this Judgment.

Therefore, IT IS THE ORDER OF THIS COURT that plaintiffs have judgment against defendant Burlington Northern Railway Company in the amount of \$173,142.80, which figure reflects 20% of the total damages assessed in this case, plus pre-judgment interest of \$75,268.24 for a total Judgment of \$248,411.04.

IT IS SO ORDERED.


James O. Ellison
Chief United States District Judge
Northern District of Oklahoma

APR 06

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

FRANK BRADEN; CAROLE R.
BRADEN a/k/a CAROL BRADEN
a/k/a CAROL R. BRADEN;
SECURITY BANK & TRUST COMPANY,
Successor-In-Interest to
Community Bank of Shidler
f/n/a Shidler State Bank;
POTTS & LONGHORN LEATHER
COMPANY n/k/a LONGHORN LEATHER;
ROCK MOUNT RANCH WEAR
MANUFACTURING COMPANY;
JIM CORBIN; COUNTY TREASURER,
Osage County, Oklahoma; and
BOARD OF COUNTY COMMISSIONERS,
Osage County, Oklahoma,

Defendants.

FILED

APR 4 1994

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

CIVIL ACTION NO. 92-C-678-B

ORDER

Upon the Motion of the United States of America, acting through the Farmers Home Administration, by Stephen C. Lewis, United States Attorney for the Northern District of Oklahoma, through Kathleen Bliss Adams, Assistant United States Attorney, and for good cause shown it is hereby ORDERED that the Judgment of Foreclosure entered on the 9th day of July, 1993, is vacated and this action is dismissed without prejudice.

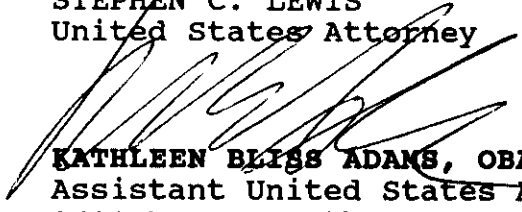
Dated this 4th day of April, 1994.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM AND CONTENT:

STEPHEN C. LEWIS
United States Attorney



KATHLEEN BLISS ADAMS, OBA #13625
Assistant United States Attorney
3600 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463

KBA:css

FILED ON 4/16/94
DATE 4/16/94

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,
Plaintiff,

vs.

Richard Earl Franks; Bernedette
Gail Franks; Moody' Jewelry, Inc.)
COUNTY TREASURER, Tulsa County,)
Oklahoma; BOARD OF COUNTY)
COMMISSIONERS, Tulsa County,)
Oklahoma,)

Defendants.) CIVIL ACTION NO. 94-C-142-B

FILED

APR 1994

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 4 day
of Apr., 1994. The Plaintiff appears by Stephen C.
Lewis, United States Attorney for the Northern District of
Oklahoma, through Neal B. Kirkpatrick, Assistant United States
Attorney; the Defendants, COUNTY TREASURER, Tulsa County,
Oklahoma, and BOARD OF COUNTY COMMISSIONERS, Tulsa County,
Oklahoma, appear by J. Dennis Semler, Assistant District
Attorney, Tulsa County, Oklahoma; the Defendant, MOODY'S JEWELRY,
INC., appears not having previously filed its disclaimer; and the
Defendants, RICHARD EARL FRANKS and BERNADETTE GAIL FRANKS,
appear not, but make default.

The Court being fully advised and having examined the
court file finds that the Defendant, RICHARD EARL FRANKS,
acknowledged receipt of Summons and Complaint on March 7, 1994;
that the Defendant, BERNADETTE GAIL FRANKS, acknowledged receipt
of Summons and Complaint on March 7, 1994; that the Defendant,
MOODY'S JEWELRY, INC., acknowledged receipt of Summons and

Complaint on February 24, 1994; that Defendant, COUNTY TREASURER, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on February 24, 1994; and that Defendant, BOARD OF COUNTY COMMISSIONERS, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on February 18, 1994.

It appears that the Defendants, COUNTY TREASURER, Tulsa County, Oklahoma, and BOARD OF COUNTY COMMISSIONERS, Tulsa County, Oklahoma, filed their **Answers** on March 10, 1994; that the Defendant, MOODY'S JEWELRY, INC., filed its Disclaimer of Interest on March 9, 1994; and that the Defendants, RICHARD EARL FRANKS and BERNEDETTE GAIL FRANKS, have failed to answer and default has therefore been **entered** by the Clerk of this Court.

The Court further **finds** that this is a suit based upon a certain mortgage note and **for** foreclosure of a mortgage securing said mortgage note **upon** the following described real property located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

LOT SEVEN (7), BLOCK ONE (1), A RESUBDIVISION OF BLOCK 7, EAST **CENTRAL** HEIGHTS, AN ADDITION IN TULSA COUNTY, **STATE OF OKLAHOMA**, ACCORDING TO THE RECORDED PLAT THEREOF.

The Court further **finds** that on December 30, 1985, Marti A. DeMay and Kellee K. **Demay**, husband and wife, executed and delivered to Charles F. **Curry** Company a mortgage note in the amount of \$50,083.00, payable in monthly installments, with interest thereon at the rate of Eleven percent (11%) per annum.

The Court further **finds** that as security for the payment of the above-described note, Marti A. DeMay and Kellee K.

DeMay, husband and wife, executed and delivered to Charles F. Curry Company a mortgage dated December 30, 1985, covering the above-described property. Said mortgage was recorded on December 30, 1985, in Book 4915, Page 1613, in the records of Tulsa County, Oklahoma.

The Court further finds that on December 12, 1990, Charles F. Curry Company assigned the above-described mortgage note and mortgage to the Secretary of Housing and Urban Development of Washington, D.C., his successors and assigns. This Assignment of Mortgage was recorded on December 19, 1990, in Book 5295, Page 380, in the records of Tulsa County, Oklahoma.

The Court further finds that on March 30, 1990, Marti A. DeMay and Kellee K. DeMay, husband and wife, granted a general warranty deed to the Defendants, RICHARD EARL FRANKS and BERNEDETTE GAIL FRANKS, husband and wife. This deed was recorded on April 2, 1990, in Book 5244, Page 2064, in the records of Tulsa County, Oklahoma.

The Court further finds that on January 1, 1991, the Defendants, RICHARD EARL FRANKS and BERNEDETTE GAIL FRANKS, husband and wife, entered into an agreement with the Plaintiff lowering the amount of the monthly installments due under the note in exchange for the Plaintiff's forbearance of its right to foreclose.

The Court further finds that the Defendants, RICHARD EARL FRANKS and BERNEDETTE GAIL FRANKS, made default under the terms of the aforesaid note and mortgage, as well as the terms and conditions of the forbearance agreement, by reason of their

failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendants, RICHARD EARL FRANKS and BERNEDETTE GAIL FRANKS, are indebted to the Plaintiff in the principal sum of \$70,220.11, plus interest at the rate of Eleven (11%) percent per annum from February 1, 1994 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action.

The Court further finds that the Defendant, COUNTY TREASURER, Tulsa County, Oklahoma, has liens on the property which is the subject matter of this action by virtue of personal property taxes in the amount of \$128.00 which became liens on the property as of June 26, 1992 and June 25, 1993. Said liens are inferior to the interest of the Plaintiff, United States of America.

The Court further finds that the Defendant, BOARD OF COUNTY COMMISSIONERS, Tulsa County, Oklahoma, claims no right, title or interest in the subject real property.

The Court further finds that the Defendant, MOODY'S JEWELRY, INC., claims no right, title or interest in the subject real property.

The Court further finds that pursuant to 12 U.S.C. 1710(1) there shall be no right of redemption (including in all instances any right to possession based upon any right of redemption) in the mortgagor or any other person subsequent to the foreclosure sale.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff, the United States of America, acting on behalf of the

Secretary of Housing and Urban Development, have and recover judgment against the Defendants, RICHARD EARL FRANKS and BERNEDETTE GAIL FRANKS, in the principal sum of \$70,220.11, plus interest at the rate of Eleven (11%) percent per annum from February 1, 1994 until judgment, plus interest thereafter at the current legal rate of 4.51 percent per annum until paid, plus the costs of this action, plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, COUNTY TREASURER, Tulsa County, Oklahoma, have and recover judgment in the amount of \$128.00 for personal property taxes for the years, 1991, 1992, 1993, plus the costs of this action.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, BOARD OF COUNTY COMMISSIONERS, Tulsa County, Oklahoma, has no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, MOODY'S JEWELRY, INC., has no right, title or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendants, RICHARD EARL FRANKS and BERNEDETTE GAIL FRANKS, to satisfy the money judgment of the Plaintiff herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell according to Plaintiff's election with

or without appraisalment the real property involved herein and apply the proceeds of the sale as follows:

First:

In payment of the costs of this action accrued and accruing incurred by the Plaintiff, including the costs of sale of said real property;

Second:

In payment of the judgment rendered herein in favor of the Plaintiff;

Third:

In payment of Defendant, COUNTY TREASURER, Tulsa County, Oklahoma, in the amount of \$128.00, personal property taxes which are currently due and owing.

The surplus from said sale, if any, shall be deposited with the Clerk of the Court to await further Order of the Court.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that pursuant to 12 U.S.C. 1710(1) there shall be no right of redemption (including in all instances any right to possession based upon any right of redemption) in the mortgagor or any other person subsequent to the foreclosure sale.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described real property, under and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the Complaint, be and they are forever barred and foreclosed of any

right, title, interest or claim in or to the subject real property or any part thereof.

S/ THOMAS R. BRETT

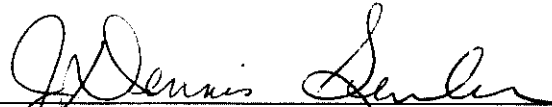
UNITED STATES DISTRICT JUDGE

APPROVED:

STEPHEN C. LEWIS
United States Attorney



for NEAL B. KIRKPATRICK
Assistant United States Attorney
3900 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463



J. DENNIS SEMLER, OBA #8076
Assistant District Attorney
406 Tulsa County Courthouse
Tulsa, Oklahoma 74103
(918) 596-4841
Attorney for Defendants,
County Treasurer and
Board of County Commissioners,
Tulsa County, Oklahoma

Judgment of Foreclosure
Civil Action No. 94-C-142-B

NBK:flv

ENTERED

DATE

4/6/94

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DENNIS B. PAGANO;
JOAN M. PAGANO;
COUNTY TREASURER, Tulsa County,
Oklahoma;
BOARD OF COUNTY COMMISSIONERS,
Tulsa County, Oklahoma,

Defendants.

FILED

APR 4 1994

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

CIVIL ACTION NO. 93-C-1091-B

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 4th day
of Apr., 1994. The Plaintiff appears by Stephen C.
Lewis, United States Attorney for the Northern District of
Oklahoma, through Neal B. Kirkpatrick, Assistant United States
Attorney; the Defendants, COUNTY TREASURER, Tulsa County,
Oklahoma, and BOARD OF COUNTY COMMISSIONERS, Tulsa County,
Oklahoma, appear by J. Dennis Semler, Assistant District
Attorney, Tulsa County, Oklahoma; and the Defendants, DENNIS B.
PAGANO and JOAN M. PAGANO, appear by their attorney, Jim D.
Shofner.

The Court being fully advised and having examined the
court file finds that the Defendant, COUNTY TREASURER, Tulsa
County, Oklahoma, acknowledged receipt of Summons and Complaint
on December 15, 1993; and that Defendant, BOARD OF COUNTY
COMMISSIONERS, Tulsa County, Oklahoma, acknowledged receipt of
Summons and Complaint on or about December 17, 1993; the

Defendants, DENNIS B. PAGANO and JOAN M PAGANO filed their Entry of Appearance on December 16, 1993.

It appears that the Defendants, COUNTY TREASURER, Tulsa County, Oklahoma, and BOARD OF COUNTY COMMISSIONERS, Tulsa County, Oklahoma, filed their Answers on January 10, 1994.

The Court further finds that this is a suit based upon a certain mortgage note and for foreclosure of a mortgage securing said mortgage note upon the following described real property located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

LOT 2, BLOCK 7, SUMMIT HEIGHTS ADDITION TO THE CITY OF TULSA, TULSA COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF.

The Court further finds that on May 28, 1985, the Defendants, DENNIS B. PAGANO and JOAN M. PAGANO, executed and delivered to MidAmerica Federal Savings and Loan Association their mortgage note in the amount of \$41,650.00, payable in monthly installments, with interest thereon at the rate of Thirteen percent (13%) per annum.

The Court further finds that as security for the payment of the above-described note, the Defendants, DENNIS B. PAGANO and JOAN M. PAGANO, executed and delivered to MidAmerica Federal Savings and Loan Association a mortgage dated May 28, 1985, covering the above-described property. Said mortgage was recorded on May 30, 1985, in Book 4866, Page 393, in the records of Tulsa County, Oklahoma.

The Court further finds that on June 5, 1985, MidAmerica Federal Savings and Loan Association assigned the

above-described mortgage note and mortgage to Cameron-Brown Company. This Assignment of Mortgage was recorded on June 7, 1985, in Book 4868, Page 325, in the records of Tulsa County, Oklahoma.

The Court further finds that on April 18, 1989, First Union Corporation, formerly known as Cameron-Brown Company, assigned the above-described mortgage note and mortgage to the Secretary of Housing and Urban Development of Washington, D.C., his successors and assigns. This Assignment of Mortgage was recorded on May 2, 1989, in Book 5180, Page 2232, in the records of Tulsa County, Oklahoma.

The Court further finds that the Defendants, DENNIS B. PAGANO and JOAN M. PAGANO, made default under the terms of the aforesaid note and mortgage, By reason of their failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendants, DENNIS B. PAGANO and JOAN M. PAGANO, are indebted to the Plaintiff in the principal sum of \$66,553.12, plus interest at the rate of Thirteen percent per annum from December 1, 1993 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action.

The Court further finds that the Defendant, COUNTY TREASURER, Tulsa County, Oklahoma, has a lien on the property which is the subject matter of this action by virtue of ad valorem taxes in the amount of \$354.00, plus interest and penalties, for the year of 1993. Said lien is superior to the interest of the Plaintiff, United States of America.

The Court further finds that the Defendant, COUNTY TREASURER, Tulsa County, Oklahoma, has liens on the property which is the subject matter of this action by virtue of personal property taxes in the amount of \$161.00 plus interest and penalties, which became liens on the property as of June 25, 1993. Said liens are inferior to the interest of the Plaintiff, United States of America.

The Court further finds that the Defendant, BOARD OF COUNTY COMMISSIONERS, Tulsa County, Oklahoma, claims no right, title or interest in the subject real property.

The Court further finds that pursuant to 12 U.S.C. 1710(1) there shall be no right of redemption (including in all instances any right to possession based upon any right of redemption) in the mortgagor or any other person subsequent to the foreclosure sale.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff, the United States of America, acting on behalf of the Secretary of Housing and Urban Development, have and recover judgment against the Defendants, DENNIS B. PAGANO and JOAN M. PAGANO, in the principal sum of \$66,553.12, plus interest at the rate of Thirteen percent per annum from December 1, 1993 until judgment, plus interest thereafter at the current legal rate of 4.51 percent per annum until paid, plus the costs of this action, plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, COUNTY TREASURER, Tulsa County, Oklahoma, have and recover judgment in the amount of \$354.00, plus penalties and interest, for ad valorem taxes for the year 1993, plus the costs of this action.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, COUNTY TREASURER, Tulsa County, Oklahoma, have and recover judgment in the amount of \$161.00 for personal property taxes for the years 1992 and 1993, plus the costs of this action.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, COUNTY TREASURER and BOARD OF COUNTY COMMISSIONERS, Tulsa County, Oklahoma, have no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendants, DENNIS B. PAGANO and JOAN M. PAGANO, to satisfy the money judgment of the Plaintiff herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell according to Plaintiff's election with or without appraisement the real property involved herein and apply the proceeds of the sale as follows:

First:

In payment of the costs of this action accrued and accruing incurred by the Plaintiff, including the costs of sale of said real property;

Second:

In payment of Defendant, COUNTY TREASURER, Tulsa County, Oklahoma, in the amount of \$354.00, plus penalties and interest, for ad valorem taxes which are presently due and owing on said real property;

Third:

In payment of the judgment rendered herein in favor of the Plaintiff;

Fourth:

In payment of Defendant, COUNTY TREASURER, Tulsa County, Oklahoma, in the amount of \$161.00, personal property taxes which are currently due and owing.

The surplus from said sale, if any, shall be deposited with the Clerk of the Court to await further Order of the Court.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that pursuant to 12 U.S.C. 1710(1) there shall be no right of redemption (including in all instances any right to possession based upon any right of redemption) in the mortgagor or any other person subsequent to the foreclosure sale.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described real property, under and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the Complaint, be and they are forever barred and foreclosed of any

right, title, interest or claim in or to the subject real property or any part thereof.

S/ THOMAS B. SMITH

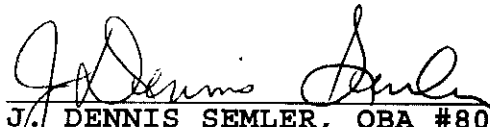
UNITED STATES DISTRICT JUDGE

APPROVED:

STEPHEN C. LEWIS
United States Attorney



NEAL B. KIRKPATRICK
Assistant United States Attorney
3900 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463



J. DENNIS SEMLER, OBA #8076
Assistant District Attorney
406 Tulsa County Courthouse
Tulsa, Oklahoma 74103
(918) 596-4841
Attorney for Defendants,
County Treasurer and
Board of County Commissioners,
Tulsa County, Oklahoma



J. M. SHOFNER, OBA #8200
4143 e. 31ST Street
Tulsa, Oklahoma 74135-1514
Attorney for the Defendant,
Dennis B. Pagano, and
Joan M. Pagano

Judgment of Foreclosure
Civil Action No. 93-C-1091-B

NBK:flv

APR 06 1994

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

IN RE:

FITZGERALD, DE ARMAN & ROBERTS,
INC.,

Debtor.

P. DAVID NEWSOME JR., TRUSTEE FOR
THE LIQUIDATION OF FITZGERALD, DE
ARMAN & ROBERTS, INC.,

Plaintiff,

vs.

SCOTT STEGALL, JAMES S. COLE,
WALTON FREDERICK CARLISLE and
CHRIS V. KEMENDO, JR.,

Defendants.

Bky. No. 88-01859-W

Adversary No. 90-0179-W

Case No. 90-C-713-B

FILED


APR 4 1994

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORDER

Defendant Scott Stegall's Motion to Withdraw Reference (Docket #1) in the above styled action is hereby DENIED as moot. The adversary proceeding which formed the basis of the Defendant's motion was tried to the Bankruptcy Court and a judgment entered July 10, 1991.

IT IS SO ORDERED THIS 4 DAY OF APRIL, 1994.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

FILED
DATE 4/6/94

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA APR - 5 1994

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

EMIEL E BELZER,

Plaintiff,

vs.

PAUL THOMAS,

Defendant.

Case No. 90-C-194-B ✓

ORDER

Now on this 5th day of April, 1994, upon consideration of
the Plaintiff's withdrawal of his motion to reopen, the Court
hereby dismisses the above-styled action without prejudice.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

ENTERED ON DOCKET

DATE 4-5-94

IN THE UNITED STATES DISTRICT COURT

FILED

FOR THE NORTHERN DISTRICT OF OKLAHOMA

APR 4 1994

UNITED VAN LINES, INC.,)
a corporation,)

Richard M. Lawrence, Court Clerk
U.S. DISTRICT COURT

Plaintiff,)

vs.)

Case No. 93-C-872-E

LURIE & ASSOCIATES, INC.,)

LURIE & ASSOCIATES, INC.,)

LURIE, DEBEVETZ & ASSOCIATES,)

INC., MARK D. LURIE, LISA A.)

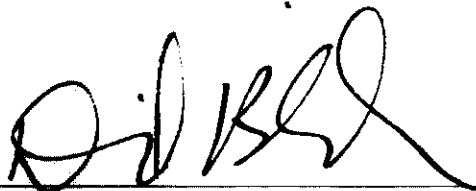
DEBEVETZ and DOUGLAS DEBEVETZ)

Defendants.)

STIPULATION OF DISMISSAL

Pursuant to Rule 41(a)(1)(ii) of the Federal Rules of Civil Procedure, it is hereby stipulated that the above styled action is dismissed with prejudice, each party to pay his, her or its own costs.

Dated: March 29, 1994



DAVID B. SCHNEIDER, OBA #7969
Law Offices Of David B. Schneider, P.C.
210 West Park Avenue, Suite 1120
Oklahoma City, Oklahoma 73102
(405) 232-9990

Attorney For United Van Lines, Inc.

CORNISH AND ZIEREN, INC.

By 
Fred C. Cornish, OBA #1924

Leslie Zieren, OBA # 9999
321 S. Boston Ave., Suite 917
Tulsa, Oklahoma 74103-3321
(918) 583-2284

ATTORNEYS FOR DEFENDANTS

ENTERED ON DOCKET

DATE APR 04 1994

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

APR 1 1994

Richard M. Lawrence, Court Clerk
U.S. DISTRICT COURT

HCG ENERGY CORPORATION,
Plaintiff,

v.

ARKLA ENERGY RESOURCES,
Defendant.

Case No. 92-C-745-B

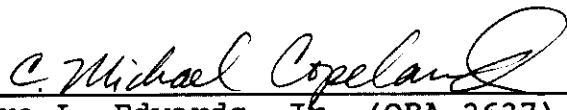
STIPULATION OF DISMISSAL

It is hereby stipulated pursuant to Fed.R.Civ.P. 41(a)(1) that the Plaintiff, HCG Energy Corporation ("HCG"), pursuant to a settlement agreement between the parties, dismisses with prejudice its claims against the Defendant Arkla Energy Resources. This dismissal shall not affect the claims of South Miami Gas Co., Inc. and Holdcom, Inc. now pending in the case styled South Miami Gas Co. Inc. and Holdcom, Inc. v. Arkla Energy Resources, Case No. 93-C-783-E in the United States District court for the Northern District of Oklahoma.

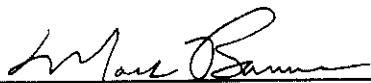
Respectfully submitted,

JONES, GIVENS, GOTCHER & BOGAN, P.C.
Attorneys for the Plaintiff

By:


Ira L. Edwards, Jr. (OBA 2637)
C. Michael Copeland (OBA 13261)
15 East Fifth, Suite 3800
Tulsa, OK 74103-4309
(918) 581-8200

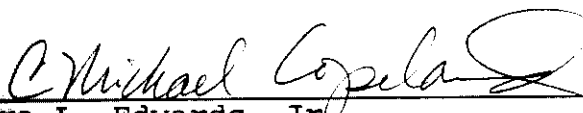
HALL, ESTILL, HARDWICK, GABLE, GOLDEN
& NELSON, P.C.

By: 
Richard T. McGonigle
Mark Banner
J. Kevin Hayes
4100 Bank of Oklahoma Tower
One Williams Center
Tulsa, OK 74172

CERTIFICATE OF MAILING

I hereby certify that on the 1st day of ^{April} March, 1994, I
mailed a true and correct copy of the above and foregoing
instrument with postage prepaid thereon to:

Richard T. McGonigle
Mark Banner
J. Kevin Hayes
Hall, Estill, Hardwick, Gable,
Golden & Nelson, P.C.
4100 Bank of Oklahoma Tower
One Williams Center
Tulsa, OK 74172


Ira L. Edwards, Jr.
C. Michael Copeland

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

OKLAHOMA ORDNANCE WORKS
AUTHORITY and the
STATE OF OKLAHOMA,

Defendants.

Civil Action No.

93-C

969B

ENTERED ON DOCKET
FILED
MAR 31 1994

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

CONSENT DECREE

Plaintiff, the United States of America ("United States"), on behalf of the United States Environmental Protection Agency ("EPA"), filed a Complaint with this Consent Decree, alleging that Defendant Oklahoma Ordnance Works Authority ("Authority") violated the Clean Water Act, 33 U.S.C. § 1251 et seq., the conditions and limitations of National Pollutant Discharge Elimination System ("NPDES") Permits Number OK0034568 and Number OK0000680, and 40 CFR § 122.21(d).

The State of Oklahoma was joined as a Defendant pursuant to Section 309(e) of the Clean Water Act, 33 U.S.C. § 1319(e).

The United States, the Authority and the State of Oklahoma have consented to the entry of this Consent Decree without trial of any issues, and the United States, the Authority and the State of Oklahoma hereby stipulate to the Court that in

order to resolve the issues **stated** in the United States' Complaint, this Consent Decree **should** be entered.

NOW THEREFORE, it is **hereby** ORDERED AND DECREED as follows:

I. JURISDICTION

1. This Court has **jurisdiction** over the subject matter of this action and over the Authority pursuant to Section 309 of the Clean Water Act, 33 U.S.C. § 1319, and 28 U.S.C. § 1345.

2. Venue is proper in this district under Section 309(b) of the Clean Water Act, 33 U.S.C. § 1319(b).

3. The Complaint **states** a claim upon which relief may be granted under Section 309 of the Clean Water Act, 33 U.S.C. § 1319(b).

II. BINDING EFFECT

4. The provisions of this Consent Decree shall apply to and be binding upon the United States and the State of Oklahoma, and upon the Authority, its officers, agents, trustees, servants, employees, successors, assigns and all persons, firms, and corporations acting under the control or direction of the Authority.

5. The Authority shall give written notice of this Consent Decree to any successor in interest at least thirty (30) days prior to transfer of operation, ownership or leasehold in the Authority's wastewater treatment system or water supply plant. The Authority shall simultaneously notify EPA, Region 6

that notice pursuant to this paragraph has been given. Upon transfer of ownership, operation or leasehold in the Authority's wastewater treatment system or water supply plant, the Authority shall provide a copy of this Consent Decree to any successor in interest. The Authority shall condition the transfer of ownership, operation, leasehold or any contract related to the performance of the Consent Decree upon the successful execution of the terms and conditions of this Consent Decree.

III. OBJECTIVES

6. It is the express purpose of the parties in entering this Consent Decree to further the objectives of the Clean Water Act, as enunciated at Section 101 of the Clean Water Act, 33 U.S.C. § 1251. All construction and other obligations in this Consent Decree or resulting from the activities required by this Consent Decree shall have the objectives of causing the Authority to come into and remain in compliance with the terms and conditions of NPDES Permit Number OK0034568 and NPDES Permit Number OK0000680, renewals or amendments to said permits, and the provisions of applicable Federal and State laws and regulations governing discharges from the Authority's wastewater treatment system and water supply plant.

IV. COMPLIANCE PROJECT

7. The Authority shall undertake a project to attain and thereafter maintain compliance with the effluent limitations, established by NPDES Permit Number OK0000680, applicable to the discharge of Total Suspended Solids ("TSS") from the water supply

plant's outfall 002. Said compliance project shall consist of the construction of a wastewater recycling facility to eliminate the discharge of filter backwash water from the water supply plant through outfall 002 to Pryor Creek and the Grand Neosho River. The completion of the entire compliance project and attainment of compliance by February 15, 1994, shall be accomplished in accordance with the following schedule:

<u>Activity</u>	<u>Due Date</u>
(1) Acquisition of property	April 1, 1993
(2) Completion of engineering design	May 1, 1993
(3) Approval by the Oklahoma State Department of Health of construction plans and specifications	June 15, 1993
(4) Conclusion of contractor bidding	July 15, 1993
(5) Selection of contractor	August 15, 1993
(6) Completion of construction of wastewater treatment facility	January 15, 1994
(7) Compliance with the TSS limits for outfall 002, NPDES Permit Number OK0000680	February 15, 1994

V. EFFLUENT LIMITATIONS AND PERMIT CONDITIONS

8. The Authority shall comply with the following interim effluent limitations for TSS at the water supply plant's outfall 002 from the date of entry of this Consent Decree through February 14, 1994:

<u>Parameter</u>	<u>Monthly (Daily) Average</u>	<u>Daily Maximum</u>
TSS	139 mg/l	253 mg/l

9. The Authority shall comply with the final effluent limits for TSS at the water supply plant's outfall 002, as set forth in NPDES Permit Number OK0000680, beginning February 15, 1994.

10. The Authority shall at all times comply with all conditions and limitations of NPDES Permit Number OK0000680 not specifically addressed in Paragraphs 8 and 9, above.

11. The Authority shall at all times comply with all conditions and limitations of NPDES Permit Number OK0034568.

VI. FUNDING

12. Performance of the terms of this Consent Decree by the Authority is not conditioned upon the receipt of any Federal or State grant funds. In addition, the Authority's performance is not excused by the failure to obtain or shortfall of any Federal or State grant funds, or by the processing of any applications for the same.

VII. REPORTING

13. Beginning with the calendar quarter ending March 31, 1993, and for every calendar quarter thereafter, the Authority shall submit in writing to EPA, Region 6 a report containing the following information: the status and progress of the compliance project required by Section IV of this Consent Decree; sampling and monitoring results for the water supply plant's outfall 002; and information as to compliance or noncompliance with the applicable requirements of this Consent Decree, including construction requirements and effluent limitations for the water supply plant's outfall 002, and any reasons for noncompliance. Such report shall also include a projection of the work to be performed pursuant to the compliance schedule set forth at Section IV of this Consent Decree during the remainder of the compliance period. Notification to EPA, Region 6 pursuant to this section of any anticipated delay shall not, by itself, excuse the delay.

14. The quarterly reports shall be submitted to EPA, Region 6 within the first fifteen (15) days of the month immediately following the last month of each calendar quarter. The full report shall also be made available for inspection by any person at the Authority's offices.

15. Within ten (10) days immediately following the deadline date of any requirement contained in Section IV of this Consent Decree, the Authority shall notify EPA, Region 6 in writing of compliance or noncompliance with said requirement, the

reason(s) for any noncompliance and a plan for preventing such noncompliance in the future.

16. All reports required to be submitted by the terms of this Consent Decree shall contain certification signed by a responsible official of the Authority. The certification shall read as follows:

"I certify that the information contained in or accompanying this (submission/document) is true, accurate, and complete.

As to (the/those) identified portion(s) of this (submission/document) for which I cannot personally verify (its/their) truth and accuracy, I certify as the official having supervisory responsibility for the person(s) who, acting under my direct instructions, made the verification, that this is true, accurate, and complete."

17. For purposes of Paragraph 16 of this Consent Decree, "responsible official" shall mean a principal executive officer or ranking official of the Authority, or a duly authorized representative of such person. A person is a duly authorized representative only if:

a. The authorization is made in writing by a principal executive officer or ranking official of the Authority;

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity (such as the position of plant manager or superintendent), a position of equivalent responsibility or an individual or position having overall responsibility for environmental matters for the Authority; and

c. The written authorization is submitted to EPA, Region 6.

VIII. STIPULATED PENALTIES

18. The Authority shall pay stipulated penalties to the United States for violations of the requirements of this Consent Decree as follows:

a. For each day that the Authority fails to comply with the compliance project deadlines established in Section IV of this Consent Decree, the Authority shall pay stipulated penalties as follows:

<u>Period of Violation</u>	<u>Penalty</u>
1st to 30th day	\$ 1,000 per day per violation
31st to 60th day	\$ 2,500 per day per violation
After 60 days	\$ 7,500 per day per violation

b. For each day that the Authority fails to comply with the reporting requirements of Section VII of this Consent Decree, the Authority shall pay stipulated penalties as follows:

<u>Period of Violation</u>	<u>Penalty</u>
1st to 30th day	\$ 1,000 per day per violation
31st to 60th day	\$ 2,500 per day per violation
After 60 days	\$ 7,500 per day per violation

c. For each violation of the interim effluent limitations for TSS at the water supply plant's outfall 002, set forth at Section V, Paragraph 8, above, the Authority shall pay

stipulated penalties as follows:

<u>Violation</u>	<u>Penalty</u>
Daily Maximum	\$ 1,000 per day per violation
Monthly (Daily) Average	\$ 5,000 per month per violation

d. For each violation of the final effluent limitations for TSS at the water supply plant's outfall 002, as set forth in NPDES Permit Number OK0000680, beginning February 15, 1994, the Authority shall pay stipulated penalties as follows:

<u>Violation</u>	<u>Penalty</u>
Daily Maximum	\$ 1,000 per day per violation
Monthly (Daily) Average	\$ 5,000 per month per violation

e. For each violation of the effluent limitations for the wastewater treatment system set forth in NPDES Permit Number OK0034568, the Authority shall pay stipulated penalties as follows:

<u>Violation</u>	<u>Penalty</u>
Daily Maximum	\$ 1,000 per day per violation
Monthly (Daily) Average	\$ 5,000 per month per violation

19. The stipulated penalties herein shall be in addition to other remedies or sanctions available to the United States by reason of the Authority's failure to comply with the requirements of this Consent Decree, NPDES Permit Number OK0000680, NPDES Permit Number OK0034568, or the Clean Water Act.

20. The Authority shall pay all stipulated penalties by cashier's or certified check payable to "Treasurer of the United States," by the 15th day of the month following the month in which the violations occurred, together with a letter describing the basis for the penalties. The Authority shall pay stipulated penalties in the same manner as the civil penalty required by Section X of this Consent Decree.

IX. DELAYS OR IMPEDIMENTS TO PERFORMANCE

21. If any event occurs which causes or may cause the Authority to violate any provision of this Consent Decree, the Authority shall notify in writing the United States and EPA, Region 6 within ten (10) days of the event. The notice shall specifically reference this section of the Consent Decree and describe in detail the anticipated length of time the violation may persist, the precise cause or causes of the violation as best they can be determined, the measures taken or to be taken by the Authority to prevent or minimize the violation as well as to prevent future violations and the timetable by which those measures will be implemented. The Authority shall adopt all reasonable measures to avoid or minimize any such violation. Failure by the Authority to comply with the notice requirements of this section shall render this section void and of no effect as to the particular violation involved, and shall constitute a waiver of the Authority's right to obtain an extension of time for its obligations under this section based on such incident.

22. If EPA, Region 6 agrees that the violation has been or will be caused by circumstances entirely beyond the control of the Authority or any entity controlled by the Authority, including the Authority's consultants and contractors, and that the Authority could not have reasonably foreseen and prevented such violation, the time for performance of such requirement may be extended for a period not to exceed the actual delay resulting from such circumstance, and stipulated penalties shall not be due for said delay. In the event EPA, Region 6 does not so agree, the Authority may submit the matter to the Court for resolution pursuant to Section XII of this Consent Decree. EPA, Region 6 shall notify the Authority in writing of the Region's agreement or disagreement with the Authority's claim of a delay or impediment to performance within forty-five (45) days of receipt of the Authority's notice under Paragraph 21 of this section. If the Authority submits the matter to the Court for resolution and the Court determines that the violation was caused by circumstances entirely beyond the control of the Authority or any entity controlled by the Authority, including the Authority's consultants and contractors, and that the Authority could not have reasonably foreseen and prevented such violation, the Authority shall be excused as to that violation, but only for the period of time the violation continues due to such circumstances.

23. Unanticipated or increased costs or expenses associated with the implementation of this Consent Decree, changed financial circumstances or technical difficulties in

meeting NPDES effluent limitations shall not, in any event, serve as a basis for changes in this Consent Decree or extensions of time under this Consent Decree.

24. Compliance with any requirement of this Consent Decree shall not, by itself, constitute compliance with any other requirement. An extension of one compliance date based on a particular incident does not necessarily result in an extension of a subsequent compliance date or dates. The Authority must make an individual showing of proof regarding each delayed incremental step or other requirement for which an extension is sought.

25. The Authority shall bear the burden of proving that any delay or violation of any requirement of this Consent Decree was caused by circumstances entirely beyond the control of the Authority or any entity controlled by the Authority, including the Authority's consultants and contractors, and that the Authority could not have reasonably foreseen and prevented such violation. The Authority shall also bear the burden of proving the duration and extent of any delay or violation attributable to such circumstances.

X. PENALTY FOR PAST VIOLATIONS

26. The Authority shall pay a civil penalty in the amount of seven hundred fifty thousand dollars (\$750,000.00) in full satisfaction of the United States' claims against the Authority through the date of filing the Complaint for violations

of the Clean Water Act, NPDES Permits Number OK0034568 and Number OK0000680 and 40 CFR § 122.21(d), as set forth in the Complaint.

27. Payment of the civil penalty shall be made within ten (10) days after the date of entry of this Consent Decree by delivering a cashier's or certified check in the sum stated above payable to the "Treasurer of the United States" to the United States Attorney for the Northern District of Oklahoma at the following address:

U.S. Attorney
Northern District of Oklahoma
U.S. Courthouse
Room 3900
333 West Fourth Street
Tulsa, Oklahoma 74103

The Authority shall mail a copy of the check and transmittal letter tendering such check to the following:

Quinton Farley (6C-AW)
Office of Regional Counsel
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733

Charles Faultry (6W-E0)
Water Management Division
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733

Patrick M. Casey
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Ben Franklin Station
Washington, D.C. 20044
Re: DOJ No. 90-5-1-1-3819

Such payment shall not be deductible for federal taxation purposes. The transmittal letter and each copy thereof shall

include the caption, civil action number, DOJ number and judicial district of this action.

28. Upon entry of this Consent Decree, the United States shall be deemed a judgment creditor for purposes of collection of this penalty and enforcement of this Consent Decree.

XI. INTEREST

29. The Authority shall pay interest for any late payment of civil or stipulated penalties. The rate of interest shall be that established at 28 U.S.C. § 1961.

XII. DISPUTE RESOLUTION

30. If the parties are unable to agree upon any plan, procedure, standard, requirement or other matter described herein, or in the event a dispute should arise among the parties regarding the implementation of the requirements of this Consent Decree, the Authority shall follow the position of the United States unless the Authority files a petition with the Court for resolution of the dispute within thirty (30) days of receipt of the United States' final written position. The Authority's petition shall set out the nature of the dispute with a proposal for its resolution. The United States shall have thirty (30) days to file a response with an alternate proposal for resolution. In any such dispute, the Authority shall bear the burden of proving that the United States' proposal is arbitrary and capricious and is not in accord with the objectives of this Consent Decree, and that the Authority's proposal will achieve

compliance with the terms and conditions of NPDES Permit Number OK0000680, the terms and conditions of NPDES Permit Number OK0034568 and the Clean Water Act in an expeditious manner.

XIII. RIGHT OF ENTRY

31. Until termination of this Consent Decree, EPA, Region 6 or its representatives, contractors and consultants, and attorneys for the United States shall have the authority to enter the Authority's wastewater treatment system or water supply plant, at all reasonable times, upon proper presentation of credentials to the manager or managers of the wastewater treatment system or water supply plant, or in the manager's absence, to the highest ranking employee present on the premises, for the purposes of:

a. Monitoring the progress of activities required by this Consent Decree;

b. Verifying any data or information submitted to EPA, Region 6 in accordance with the terms of this Consent Decree;

c. Obtaining samples and, upon request, splits of any samples taken by the Authority or its contractors or consultants; and

d. Assessing the Authority's compliance with this Consent Decree.

32. The authority granted in Paragraph 31 of this Consent Decree is in addition to EPA's right of entry and

inspection pursuant to Section 308 of the Clean Water Act, 33 U.S.C. § 1318.

XIV. NOT A PERMIT

33. This Consent Decree is not and shall not be interpreted to be a permit, or a modification of an existing permit, issued pursuant to Section 402 of the Clean Water Act, 33 U.S.C. § 1342, nor shall it in any way relieve the Authority of its obligation to obtain proper NPDES permits and comply with the requirements of such permits or with any other applicable Federal or State law or regulation, other than for those limited pollutant parameter interim standards and conditions during the compliance period set forth in Section V, Paragraph 8 of this Consent Decree. Any existing permit or existing proposed permit, new permit, or modification of an existing permit, must be complied with in accordance with applicable Federal and State laws and regulations, except as provided in Section V, Paragraph 8 of this Consent Decree. The pendency or outcome of any proceeding concerning the issuance, reissuance, or modification of a NPDES permit shall neither affect nor postpone the Authority's duties and liabilities as set forth in this Consent Decree.

XV. FAILURE OF COMPLIANCE

34. The United States does not, by its consent to the entry of this Consent Decree, warrant or aver in any manner that the Authority's complete compliance with this Consent Decree will result in compliance with the provisions of the Clean Water Act,

NPDES Permit Number OK0000680 or NPDES Permit Number OK0034568. Notwithstanding EPA's review and approval of any plans formulated pursuant to this Consent Decree, the Authority shall remain solely responsible for compliance with the Clean Water Act, this Consent Decree, NPDES Permit Number OK0000680 and NPDES Permit Number OK0034568.

XVI. NON-WAIVER PROVISIONS

35. This Consent Decree in no way affects or relieves the Authority of responsibility to comply with any Federal, State or local law, regulation or permit. Nothing contained in this Consent Decree shall be construed to prevent or limit the United States' rights to obtain penalties or injunctive relief under the Clean Water Act or other Federal statutes or regulations except as expressly specified herein.

36. The parties agree that the Authority is responsible for achieving and maintaining complete compliance with all applicable Federal, State and local laws, regulations and permits, including NPDES Permit Number OK0000680, other than as expressly provided in Section V, Paragraph 8 of this Consent Decree, and NPDES Permit Number OK0034568. Compliance with this Consent Decree shall be no defense to any actions commenced pursuant to any applicable laws, regulations or permits.

37. This Consent Decree does not limit or affect the rights of the Authority or of the United States as against any third parties, nor does it limit the rights of third parties or

create any rights in third parties, not parties to this Consent Decree, against the Authority.

38. The United States reserves any and all legal and equitable remedies available to enforce the provisions of this Consent Decree.

39. This Consent Decree is entered into for settlement purposes only and is not to be construed as an admission by the Authority or the State of Oklahoma.

40. This Consent Decree does not resolve the contingent liability of the State of Oklahoma under Section 309(e) of the Clean Water Act, 33 U.S.C. § 1319(e). The United States specifically reserves its claims against the State, and the State reserves its defenses.

XVII. COSTS OF SUIT

41. Each party shall bear its own costs and attorney's fees in this action. Should the Authority subsequently be determined to have violated the terms and conditions of this Consent Decree, then the Authority shall be liable to the United States for any costs and attorney's fees incurred by the United States in any actions against the Authority for noncompliance with this Consent Decree.

XVIII. FORM OF NOTICE

42. Except as specified otherwise, when written notification to or communication with the United States, EPA, Region 6 or Defendant Oklahoma Ordnance Works Authority is

required by the terms of this Consent Decree, it shall be addressed as follows:

United States:

Patrick M. Casey
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
Post Office Box 7611
Ben Franklin Station
Washington, D.C. 20044
DOJ Case No. 90-5-1-1-3819

EPA, Region 6:

Quinton Farley (6C-AW)
Office of Regional Counsel
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733

Oklahoma Ordnance Works Authority:

Oklahoma Ordnance Works Authority
P.O. Box 945
Pryor, Oklahoma 74361

AND

William C. Anderson
Doerner, Stuart, Saunders, Daniel & Anderson
Suite 500
320 South Boston Avenue
Tulsa, Oklahoma 74103-3725

43. Notifications to or communications with the United States or EPA, Region 6 shall be deemed submitted on the date they are postmarked and sent by certified mail, return receipt requested.

XIX. MODIFICATION

44. Except as provided for herein, there shall be no modification of this Consent Decree without written approval of all of the parties to this Consent Decree and the Court.

XX. PUBLIC NOTICE AND COMMENT

45. The parties agree and acknowledge that final approval by the United States and entry of this Consent Decree are subject to the requirements of 28 CFR § 50.7, which provides for notice of the lodging of this Consent Decree in the Federal Register, an opportunity for public comment and consideration of any comments.

XXI. CONTINUING JURISDICTION OF THE COURT

46. The Court shall retain jurisdiction to enforce the terms and conditions of this Consent Decree and to resolve disputes arising hereunder as may be necessary or appropriate for the construction or execution of this Consent Decree.

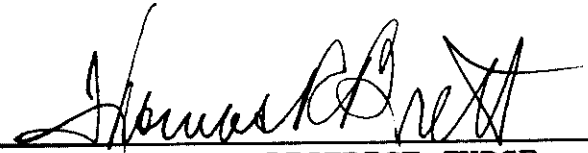
XXII. TERMINATION

47. This Consent Decree shall terminate when the Authority has paid all civil and stipulated penalties due, has completed all compliance measures specified herein, and EPA, Region 6 has, in the exercise of its non-reviewable discretion, determined that the Authority has satisfactorily achieved compliance with the effluent limitations for both the water supply plant's outfall 002, as set forth in NPDES Permit Number OK0000680, and the wastewater treatment system, as set forth in NPDES Permit Number OK0034568, for a period of twelve (12) consecutive months as indicated by a letter to the Court from the United States.

XXIII. SIGNATORIES

48. The undersigned representatives of settling Defendants certify that they are fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind the Defendants to this document.

Dated and entered this 31 day of May,
1993.


UNITED STATES DISTRICT JUDGE
Northern District of Oklahoma

THE UNITED STATES HEREBY CONSENTS to the entry of this Consent Decree, subject to the public notice requirements of 28 C.F.R. § 50.7. DEFENDANTS OKLAHOMA ORDNANCE WORKS AUTHORITY AND THE STATE OF OKLAHOMA HEREBY CONSENT to the entry of this Consent Decree without reservation.

FOR THE UNITED STATES OF AMERICA:

Oct. 17, 1993
Date

Lois J. Schiffer
LOIS J. SCHIFFER
Acting Assistant Attorney General
Environment and Natural Resources
Division
United States Department of Justice

October 6, 1993
Date

Pat Casey
PATRICK M. CASEY
Trial Attorney
Environmental Enforcement Section
United States Department of Justice
P.O. Box 7611, Ben Franklin Station
Washington, D.C. 20044-7611
(202) 514-1448

October 25, 1993
Date

Stephen C. Lewis
STEPHEN C. LEWIS
United States Attorney

Peter Bernhardt
PETER BERNHARDT
Assistant United States Attorney
U.S. Courthouse
Room 3900
333 West Fourth Street
Tulsa, Oklahoma 74103

**FOR THE UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY:**

5/31/93
Date

Stan C. Felt
Assistant Administrator for
Enforcement
U.S. Environmental Protection Agency
Washington, D.C. 20460

Feb. 9, 1993
Date

W.B. Hathaway
for
Regional Administrator
U.S. Environmental Protection Agency
Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733

OF COUNSEL:

Quinton Farley
Office of Regional Counsel
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733

FOR OKLAHOMA ORDNANCE WORKS AUTHORITY:

2/3/93
Date

John L. Robertson
JOHN L. ROBERTSON
Chairman of the Board
Oklahoma Ordnance Works Authority
P.O. Box 945
Pryor, Oklahoma 74361

February 3, 1993
Date

William C. Anderson
WILLIAM C. ANDERSON
Doerner, Stuart, Saunders,
Daniel & Anderson
Suite 500
320 South Boston Avenue
Tulsa, Oklahoma 74103-3725
(918) 582-1211
Attorney for Defendant

FOR THE STATE OF OKLAHOMA:

January 26, 1993
Date

Brita Haugland Cantrell
BRITA HAUGLAND CANTRELL
Assistant Attorney General
2300 N. Lincoln Blvd.
Suite 112
Oklahoma City, Oklahoma 73105
(405) 521-3921

DATE 9-1-94

FILED
MAR 3 1 1966

Petitioner,

VS.

No. 94-C-257-B

MICHAEL CODY, et al,

Respondent.

MAR 31 1994
Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA
7-B

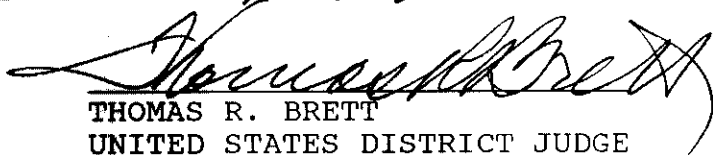
The answer shall respond to the allegations of the petition. In addition it shall state whether the petitioner has exhausted his state remedies including any post-conviction remedies available to him under the statutes or procedural rules of the state and including also his right of appeal both from the judgment of conviction and from any adverse judgment or order in the post-conviction proceeding. The answer shall indicate what transcripts...are available, when they can be furnished, and also what proceedings have been recorded and not transcribed. There shall be attached to the answer such portions of the transcript as the answering party deems relevant. The court may on its own motion or upon request of the petitioner may order that further portions of the existing transcripts be furnished or that certain portions of the non-transcribed proceedings be transcribed and furnished. If a transcript is neither available nor procurable, a narrative summary of the evidence may be submitted. If the petitioner appealed from the judgment of conviction or from an adverse judgment or order in a post-conviction proceeding, a copy of the petitioner's brief on appeal and of the opinion of the appellate court, if any, shall also be filed by the respondent with the answer.

As an alternative to filing a Rule 5 answer, Respondent may file a motion to dismiss based upon alleged nonexhaustion, abuse of the writ pursuant to Rule 9 of the Rules Governing § 2254 Habeas Corpus Cases, or lack of jurisdiction. If Respondent files a motion to dismiss based upon alleged nonexhaustion, and if Petitioner appealed from the judgment of conviction or from an adverse judgment or order in a post-conviction proceeding, a copy of Petitioner's brief on appeal and of the opinion of the appellate court, if any, should be filed by Respondent with the motion to dismiss.

ACCORDINGLY, IT IS HEREBY ORDERED:

1. That the Clerk shall **reopen** Petitioner's action;
2. That Petitioner's motion for leave to proceed in forma pauperis be **granted**;
3. That the Clerk shall **serve** by mail a stamped-filed copy of the petition on the Oklahoma Attorney General, see Local Rule 9.3(B);
4. That Respondent shall **show cause** why the writ should not issue and **file a response** to the petition for a writ of habeas corpus within **thirty (30) days** from the date of entry of this order. Extensions of time will be granted for good cause only and in no event for longer than an additional twenty (20) days. Fed. R. Civ. P. 81(a)(2).

SO ORDERED THIS 31 day of Mar, 1994.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

ENTERED ON DOCKET

DATE 4-1-94

UNITED STATES OF AMERICA,
Plaintiff,

vs.

HILLARD P. AMOS;
REBECCA A. COGGIN;
WELLS FARGO CREDIT CORPORATION;
COUNTY TREASURER, Tulsa County,
Oklahoma;
BOARD OF COUNTY COMMISSIONERS,
Tulsa County, Oklahoma,

Defendants.) CIVIL ACTION NO. 93-C-513-E

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 31 day
of March, 1994. The Plaintiff appears by Stephen C.
Lewis, United States Attorney for the Northern District of
Oklahoma, through Neal B. Kirkpatrick, Assistant United States
Attorney; the Defendants, COUNTY TREASURER, Tulsa County,
Oklahoma, and BOARD OF COUNTY COMMISSIONERS, Tulsa County,
Oklahoma, appear by J. Dennis Semler, Assistant District
Attorney, Tulsa County, Oklahoma; the Defendant, HILLARD P. AMOS,
appears not, but makes default; the Defendant, REBECCA A. COGGIN,
appears not, but makes default; and the Defendant, WELLS FARGO
CREDIT CORPORATION, appears not, but makes default.

The Court being fully advised and having examined the
court file finds that the Defendant, HILLARD P. AMOS,
acknowledged receipt of Summons and Complaint on June 10, 1993;
that the Defendant, REBECCA A. COGGIN, acknowledged receipt of
Summons and Complaint on June 7, 1993; that the Defendant, WELLS
FARGO CREDIT CORPORATION, was served a copy of Summons and

Complaint on July 9, 1993 by **certified** mail, restricted delivery, return receipt requested, to **its** registered agent, Corporation Company; that Defendant, **COUNTY TREASURER**, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on June 8, 1993; and that Defendant, **BOARD OF COUNTY COMMISSIONERS**, Tulsa County, Oklahoma, **acknowledged** receipt of Summons and Complaint on June 7, 1993.

It appears that the **Defendants**, **COUNTY TREASURER**, Tulsa County, Oklahoma, and **BOARD OF COUNTY COMMISSIONERS**, Tulsa County, Oklahoma, filed their **Answers** on June 28, 1993; and that the Defendants, **HILLARD P. AMOS**, **REBECCA A. COGGIN** and **WELLS FARGO CREDIT CORPORATION**, have failed to answer and default has therefore been entered by the Clerk of this Court.

The Court further **finds** that this is a suit based upon a certain mortgage note and **for** foreclosure of a mortgage securing said mortgage note **upon** the following described real property located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Twelve (12), **Block Four (4)**, **SANTA MONICA ADDITION**, a subdivision to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat **thereof**.

The Court further **finds** that on October 18, 1979, Ray Doyle Hedrick, executed and **delivered** to Nowlin Mortgage Company his mortgage note in the amount of \$33,600.00, payable in monthly installments, with interest **thereon** at the rate of Ten and One-Half percent (10.5%) per **annum**.

The Court further **finds** that as security for the payment of the above-described **note**, Ray Doyle Hedrick, executed and delivered to Nowlin Mortgage Company a mortgage dated October 18, 1979, covering the above-described property. Said mortgage was recorded on October 23, 1979, in Book 4435, Page 2083, in the records of Tulsa County, Oklahoma.

The Court further **finds** that on October 26, 1979, Nowlin Mortgage Company assigned the above-described mortgage note and mortgage to Federal **National** Mortgage Association. This Assignment of Mortgage was recorded on November 9, 1979, in Book 4440, Page 47, in the records of Tulsa County, Oklahoma. Federal National Mortgage Association caused a Corrective Assignment of Mortgage to be filed with the **Tulsa** County Clerk on March 28, 1991, in Book 5311 at Page 1876.

The Court further **finds** that on November 15, 1989, Federal National Mortgage Association assigned the above-described mortgage note and mortgage to the Secretary of Housing and Urban Development of Washington, D.C., his successors and assigns. This Assignment of **Mortgage** was recorded on November 28, 1989, in Book 5222, Page 753, in the records of Tulsa County, Oklahoma.

On August 7, 1985, L. Leon Remy, Sherry E. Remy, Tim L. Remy, and Lisa A. Remy, granted a general warranty deed to the Defendant, HILLARD P. AMOS and his then wife, JOYCE L. AMOS. This deed was recorded with the **Tulsa** County Clerk on August 9, 1985, in Book 4883 at Page 1251, and the Defendant, HILLARD P. AMOS,

assumed thereafter payment of the amount due pursuant to the note and mortgage described above.

The Court further finds that on February 1, 1990, the Defendant, HILLARD P. AMOS, entered into an agreement with the Plaintiff lowering the amount of the monthly installments due under the note in exchange for the Plaintiff's forbearance of its right to foreclose. A superseding agreements were reached between these same parties on February 1, 1991, and January 1, 1992.

The Court further finds that the Defendant, HILLARD P. AMOS, made default under the terms of the aforesaid note and mortgage, as well as the terms and conditions of the forbearance agreements, by reason of failure to make the monthly installments due thereon, and due to his abandonment of the subject property, which default has continued, and that by reason thereof the Defendant, HILLARD P. AMOS, is indebted to the Plaintiff in the principal sum of \$49,506.35, plus interest at the rate of Ten and One-Half (10.5%) percent per annum from June 1, 1993, until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action in the amount of \$513.00 (\$505.00 abstracting fees, \$8.00 fee for recording Notice of Lis Pendens).

The Court further finds that the Defendant, COUNTY TREASURER, Tulsa County, Oklahoma, has a lien on the property which is the subject matter of this action by virtue of ad Personal Propety Taxes in the amount of \$25.00, plus penalties

and interest, for the year of 1992. Said lien is inferior to the interest of the Plaintiff, United States of America.

The Court further **finds** that the Defendant, BOARD OF COUNTY COMMISSIONERS, Tulsa County, Oklahoma, claims no right, title or interest in the subject real property.

The Court further **finds** that the Defendants, WELLS FARGO CREDIT CORPORATION and REBECCA A. COGGIN, have no right title or interest in or to the subject property due to their failure to appear herein.

The Court further **finds** that the Defendant, HILLARD P. AMOS, is one and the same person as, and is sometimes known as, Hillard Parker Amos and Denny Amos. Since his divorce from the Defendant, REBECCA A. COGGIN, on January 2, 1990, the Defendant, HILLARD P. AMOS, has been unmarried.

The Court further **finds** that pursuant to 12 U.S.C. 1710(1) there shall be no right of redemption (including in all instances any right to possession based upon any right of redemption) in the mortgagor or any other person subsequent to the foreclosure sale.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff, the United States of America, acting on behalf of the Secretary of Housing and Urban Development, have and recover judgment against the Defendant, HILLARD P. AMOS, in the principal sum of \$49,506.35, plus interest at the rate of Ten and One-Half (10.5%) percent per annum from June 1, 1993, until judgment, plus interest thereafter at the current legal rate of 4.75 percent per annum until paid, plus the costs of this action in the amount

of \$513.00 (\$505.00 abstracting fees, \$8.00 fee for recording Notice of Lis Pendens), plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, COUNTY TREASURER, Tulsa County, Oklahoma, have and recover judgment in the amount of \$25.00, plus penalties and interest, for Personal Property Taxes for the year 1992, plus the costs of this action.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, BOARD OF COUNTY COMMISSIONERS, Tulsa County, Oklahoma, have no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, REBECCA A. COGGIN, has no right, title or interest in the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, WELLS FARGO CREDIT CORPORATION, has no right, title or interest in the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendant, HILLARD P. AMOS, to satisfy the money judgment of the Plaintiff herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell according to Plaintiff's election with or without appraisement the real property involved herein and apply the proceeds of the sale as follows:

First:

In payment of the costs of this action accrued and accruing incurred by the Plaintiff, including the costs of sale of said real property;

Second:

In payment of the judgment rendered herein in favor of the Plaintiff;

Third:

In payment of Defendant, COUNTY TREASURER, Tulsa County, Oklahoma, in the amount of \$25.00, plus penalties and interest, for ad valorem taxes which are presently due and owing on said real property;

The surplus from said sale, if any, shall be deposited with the Clerk of the Court to await further Order of the Court.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that pursuant to 12 U.S.C. 1710(1) there shall be no right of redemption (including in all instances any right to possession based upon any right of redemption) in the mortgagor or any other person subsequent to the foreclosure sale.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described real property, under and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the Complaint, be and they are forever barred and foreclosed of any

right, title, interest or claim in or to the subject real property or any part thereof.

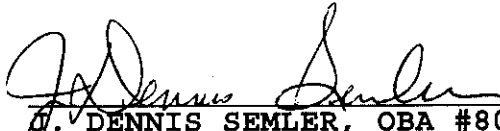
UNITED STATES DISTRICT JUDGE

APPROVED:

STEPHEN C. LEWIS
United States Attorney



NEAL B. KIRKPATRICK
Assistant United States Attorney
3900 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463



J. DENNIS SEMLER, OBA #8076
Assistant District Attorney
406 Tulsa County Courthouse
Tulsa, Oklahoma 74103
(918) 596-4841
Attorney for Defendants,
County Treasurer and
Board of County Commissioners,
Tulsa County, Oklahoma

Judgment of Foreclosure
Civil Action No. 93-C-513-E

NBK:flv

ENTERED ON DOCKET

DATE

4-1-94

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

STACEY PATTERSON, a minor child,
by and through his mother, NITA POOL,

Plaintiff,

v.

ROBERT RAY HAILEY and EMPIRE
CONSTRUCTION AND MATERIALS, INC.,

Defendants.

MAR 31 1994

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

CIV. CASE NO.
92-C-715 E

ORDER APPROVING SETTLEMENT AND JOURNAL ENTRY OF JUDGMENT

This cause came on for hearing on the 14th day of March, 1994, on the joint motion of the Plaintiff and the Defendants for the Court to approve the Settlement Agreement and Release in Full. The Court heard the evidence presented by the parties and the testimony of the Plaintiff, and reviewed the terms of the Settlement Agreement and Release in Full in the matter. During the hearing, however, a dispute arose between the Plaintiff and the attorney for St. John's Medical Center, represented by Paul Naylor, as to the ultimate distribution of the settlement funds. The Court at that time held the entire matter in abeyance until the dispute could be resolved. The Court, now being advised that such dispute is fully resolved between all interested parties, finds that the Settlement Agreement entered into by the parties is fair, reasonable, and in the best interests of the minor child, Stacey Patterson, and should be approved. The Court finds that the Plaintiff is aware that this is a compromise settlement and that it is a full, final and complete resolution of all claims that the Plaintiff has or may have in the future arising out of the incidents alleged in the Complaint herein. The Court finds that the Plaintiff's mother is

aware that by settling she is giving up the right to present this dispute to a jury at a trial, in which case the jury might award either a greater or lesser amount of damages than those received in the Settlement.

The Court further finds that Nita Pool, as the natural parent and next friend of the minor child named above, understands that the injury sustained by her child may be permanent in nature and could require future medical, and/or psychological treatment and, that by settling this case on behalf of her child, that she is giving up the rights of her child to present his claims to a jury at a trial, and that the jury might award more or less than the settlement amounts referred to herein. The Court finds that the parent understands that her child will receive no further compensation from the Defendants beyond the amounts referred to herein, now or in the future, for any claims arising out of the matters alleged in this Litigation and, considering all of the above, the Court finds that the parent believes this settlement on behalf of her minor child to be fair, reasonable and in the best interests of her child.

The Court further finds that the terms of the Settlement Agreement provide that the total settlement paid by the Defendants to the Plaintiff is Forty-eight Thousand Dollars (\$48,000) and from that sum the Plaintiff will be responsible for and shall pay any and all medical, hospital, pharmaceutical, counselling, and any other health care or health products bills, whether now known or hereinafter incurred, and shall satisfy all liens incurred by the

Plaintiff as a result of the matters alleged in this Litigation. The Court finds that the total amount of the medical lien in favor of St. John's Medical Center is Eighteen Thousand Two Hundred Seventy-Eight and 82/100 Dollars (\$18,278.82), but that St. John's Medical Center has agreed to compromise that amount and release all parties from further liability in exchange for the payment of Fifteen Thousand Two Hundred and Seventy-Eight and 82/100 Dollars (\$15,278.82) out of the settlement monies.

Furthermore, out of the total settlement amount paid by Defendants to Plaintiff, as set forth in the terms of the Settlement Agreement, Plaintiff is solely responsible for payment to Chiles Townsend, attorney for the Plaintiff, for his attorney fees and expenses incurred in this matter. All remaining funds recovered on behalf of Stacey Patterson should be deposited, in accordance with Okla. Stat. tit. 12, § 83, as more specifically set forth in the Court's Supplemental Order.

The Court finds at this time that the settlement is fair, reasonable and is in the best interests of the minor child, Stacey Patterson.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Settlement Agreement and Release in Full among the parties is approved by the Court as being fair, reasonable and in the best interests of the minor child, Stacey Patterson, and that judgment is hereby entered for the Plaintiff and against the Defendants in the total amount of Forty-Eight Thousand Dollars (\$48,000), said amount being inclusive of all prejudgment interest, costs, and

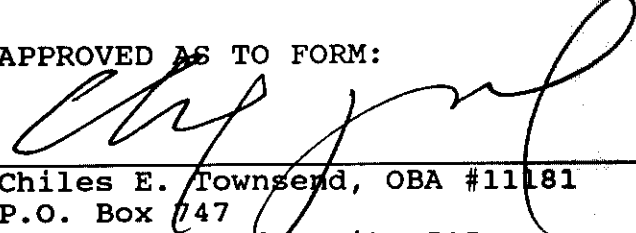
attorney fees, and inclusive of all outstanding medical bills and costs incurred in this accident, specifically including the medical lien to St. John's Medical Center, as is set out above.

SO ORDERED, this 31 day of March, 1994.

S/JEFFREY S. WOLFE
U.S. MAGISTRATE JUDGE

UNITED STATES MAGISTRATE JUDGE
JEFFREY SCOTT WOLFE

APPROVED AS TO FORM:

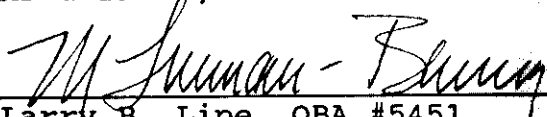

Chiles E. Townsend, OBA #11181
P.O. Box 747
222 East Grand, Suite 505
Ponca City, OK 74602
(405) 765-2000

ATTORNEY FOR PLAINTIFF

- and -


LIPE, GREEN, PASCHAL,
TRUMP & BRAGG, P.C.

By:


Larry B. Lipe, OBA #5451
Melodie Freeman-Burney, OBA #12667
3700 First National Tower
15 East 5th Street, Suite 3700
Tulsa, Oklahoma 74103-4344
(918) 599-9400

ATTORNEYS FOR DEFENDANTS

- and -


Paul B. Naylor
NAYLOR & WILLIAMS, INC.
1701 South Boston, Ave.
Tulsa, Oklahoma 74119
(918) 582-8000

ATTORNEYS FOR ST. JOHN'S MEDICAL CENTER

ENTERED ON DOCKET

DATE 4-1-94

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,
Plaintiff,

vs.

CHARLES E. BLUM;
SHERRY D. BLUM;
CITY OF JENKS, Oklahoma;
VINCENT J. MRASEK;
JUDITH A. MRASEK;
COUNTY TREASURER, Tulsa County,
Oklahoma;
BOARD OF COUNTY COMMISSIONERS,
Tulsa County, Oklahoma,

Defendants.) CIVIL ACTION NO. 93-C-435-E

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 31 day
of March, 1994. The Plaintiff appears by Stephen C.
Lewis, United States Attorney for the Northern District of
Oklahoma, through Neal B. Kirkpatrick, Assistant United States
Attorney; the Defendants, **County Treasurer, Tulsa County,**
Oklahoma, and Board of County Commissioners, Tulsa County,
Oklahoma, appear by J. Dennis Semler, Assistant District
Attorney, Tulsa County, Oklahoma; and the Defendants, **Charles E.**
Blum; Sherry D. Blum; City of Jenks, Oklahoma; Vincent J. Mrasek;
and Judith A. Mrasek, appear not, but make default.

The Court being fully advised and having examined the
court file finds that the Defendant, **Charles E. Blum,** was served
with Summons and Complaint on June 18, 1993; that the Defendant,
Sherry D. Blum, was served with Summons and Complaint on June 18,
1993 and October 18, 1993; that the Defendant, **City of Jenks,**

Oklahoma, acknowledged receipt of Summons and Complaint on May 17, 1993; that the Defendant, Vincent J. Mrasek, acknowledged receipt of Summons and Complaint on May 12, 1993; that the Defendant, Judith A. Mrasek, acknowledged receipt of Summons and Complaint on May 12, 1993; that Defendant, County Treasurer, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on May 17, 1993; and that Defendant, Board of County Commissioners, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on May 12, 1993.

It appears that the Defendants, County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma, filed their Answers on May 27, 1993; that the Defendants, Charles E. Blum; Sherry D. Blum; City of Jenks, Oklahoma; Vincent J. Mrasek; and Judith A. Mrasek, have failed to answer and their default has therefore been entered by the Clerk of this Court.

The Court further finds that this is a suit based upon a certain mortgage note and for foreclosure of a mortgage securing said mortgage note upon the following described real property located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

**LOT THREE (3), BLOCK TWO (2), HOLLIS MARTIN
ADDITION, A SUBDIVISION TO TULSA COUNTY, STATE
OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT
THEREOF.**

The Court further finds that on February 27, 1985, Vincent J. Mrasek and Judy A. Mrasek executed and delivered to FirstTier Mortgage Co. their mortgage note in the amount of

\$63,700.00, payable in monthly installments, with interest thereon at the rate of 12.5 percent per annum.

The Court further finds that as security for the payment of the above-described note, Vincent J. Mrasek and Judy A. Mrasek executed and delivered to FirstTier Mortgage Co. a mortgage dated February 27, 1985, covering the above-described property. Said mortgage was recorded on March 5, 1985, in Book 4848, Page 475, in the records of Tulsa County, Oklahoma.

The Court further finds that on August 17, 1987, FirstTier Mortgage Co. assigned the above-described mortgage note and mortgage to Secretary of Housing and Urban Development of Washington, D.C., his successors and assigns. This Mortgage Assignment was recorded on August 21, 1987, in Book 5047, Page 16, in the records of Tulsa County, Oklahoma.

The Court further finds that on September 30, 1985, Vincent J. Mrasek and Judy A. Mrasek, husband and wife, granted a General Warranty Deed to the Defendants, Charles E. Blum and Sherry D. Blum, husband and wife. This Deed was recorded on October 1, 1985, in Book 4896, Page 110, in the records of Tulsa County, Oklahoma, and Defendants, Charles E. Blum and Sherry D. Blum, assumed thereafter payment of the amount due pursuant to the note and mortgage described above.

The Court further finds that on March 1, 1989, the Defendants, Charles E. Blum and Sherry D. Blum, entered into an agreement with the Plaintiff lowering the amount of the monthly installments due under the note in exchange for the Plaintiff's forbearance of its right to foreclose.

The Court further finds that the Defendants, Charles E. Blum and Sherry D. Blum, made default under the terms of the aforesaid note and mortgage, as well as the terms and conditions of the forbearance agreement, by reason of their failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendants, Charles E. Blum and Sherry D. Blum, are indebted to the Plaintiff in the principal sum of \$114,028.62, plus interest at the rate of 12.5 percent per annum from May 10, 1993 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action accrued and accruing.

The Court further finds that the Defendant, County Treasurer, Tulsa County, Oklahoma, has a lien on the property which is the subject matter of this action by virtue of personal property taxes in the amount of \$63.00 which became a lien on the property as of 1991. Said lien is inferior to the interest of the Plaintiff, United States of America.

The Court further finds that the Defendant, Board of County Commissioners, Tulsa County, Oklahoma, claims no right, title or interest in the subject real property.

The Court further finds that the Defendant, City of Jenks, Oklahoma, has no right, title or interest in the subject real property except insofar as it is the holder of certain easements as shown on the duly recorded plat of Hollis Martin addition.

The Court further finds that the Defendants, Vincent J. Mrasek and Judith A. Mrasek, are in default and therefore have no right, title or interest in the subject real property.

The Court further finds that pursuant to 12 U.S.C. 1710(1) there shall be no right of redemption (including in all instances any right to possession based upon any right of redemption) in the mortgagor or any other person subsequent to the foreclosure sale.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff, the United States of America, acting on behalf of the Secretary of Housing and Urban Development of Washington, D.C., his successors and assigns, have and recover judgment against the Defendants, **Charles E. Blum and Sherry D. Blum**, in the principal sum of \$114,028.62, plus interest at the rate of 12.5 percent per annum from May 20, 1993 until judgment, plus interest thereafter at the current legal rate of 4.22 percent per annum until paid, plus the costs of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, **County Treasurer, Tulsa County, Oklahoma**, have and recover judgment in the amount of \$63.00, plus penalties and interest, for personal property taxes for the year 1991, plus the costs of this action.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, **Vincent J. Mrasek; Judith A. Mrasek; and Board of County Commissioners, Tulsa County, Oklahoma**, have no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, City of Jenks, Oklahoma, has no right, title, or interest in the subject real property except insofar as it is the holder of certain easements as shown on the duly recorded plat of Hollis Martin addition.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendants, Charles E. Blum and Sherry D. Blum, to satisfy the money judgment of the Plaintiff herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell according to Plaintiff's election with or without appraisement the real property involved herein and apply the proceeds of the sale as follows:

First:

In payment of the costs of this action accrued and accruing incurred by the Plaintiff, including the costs of sale of said real property;

Second:

In payment of the judgment rendered herein in favor of the Plaintiff;

Third:

In payment of Defendant, County Treasurer, Tulsa County, Oklahoma, in the amount of \$63.00, personal property taxes which are currently due and owing.

The surplus from said sale, if any, shall be deposited with the Clerk of the Court to await further Order of the Court.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that pursuant to 12 U.S.C. 1710(1) there shall be no right of redemption (including in all instances any right to possession based upon any right of redemption) in the mortgagor or any other person subsequent to the foreclosure sale.

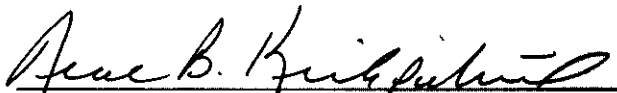
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described real property, under and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the Complaint, be and they are forever barred and foreclosed of any right, title, interest or claim in or to the subject real property or any part thereof.

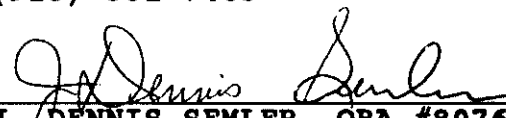
ST. JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

APPROVED:

STEPHEN C. LEWIS
United States Attorney


NEAL B. KIRKPATRICK
Assistant United States Attorney
3900 U.S. Courthouse
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(918) 581-7463


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(918) 596-4841
Attorney for Defendants,
County Treasurer and Board of County Commissioners,
Tulsa County, Oklahoma

Judgment of Foreclosure
Civil Action No. 93-C-435-E

NBK:css

ENTERED ON DOCKET

DATE 4-1-94

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MELLONY JOY ALEXANDER;
OSTEOPATHIC HOSPITAL FOUNDERS
ASSOCIATION, a corporation dba
Oklahoma Osteopathic Hospital;
COMMUNITY BANK AND TRUST COMPANY;
STATE OF OKLAHOMA ex rel.
Oklahoma Tax Commission;
COUNTY TREASURER, Tulsa County,
Oklahoma;
BOARD OF COUNTY COMMISSIONERS,
Tulsa County, Oklahoma,

Defendants.

CIVIL ACTION NO. 93-C-515-JE

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 31 day
of March, 1994. The Plaintiff appears by Stephen C.
Lewis, United States Attorney for the Northern District of
Oklahoma, through Neal B. Kirkpatrick, Assistant United States
Attorney; the Defendants, **County Treasurer, Tulsa County,**
Oklahoma, and **Board of County Commissioners, Tulsa County,**
Oklahoma, appear by J. Dennis Semler, Assistant District
Attorney, Tulsa County, Oklahoma; the Defendant, **Osteopathic**
Hospital Founders Association, a corporation dba Oklahoma
Osteopathic Hospital, appears by its attorney Frank H. McCarthy;
the Defendant, **Community Bank and Trust Company,** appears not,
having previously filed its Disclaimer; the Defendant, **State of**
Oklahoma ex rel. Oklahoma Tax Commission, appears not, having

previously filed its Disclaimer; and the Defendant, **Mellony Joy Alexander**, appears not, but makes default.

The Court being fully advised and having examined the court file finds that the Defendant, **Mellony Joy Alexander**, acknowledged receipt of Summons and Complaint on July 4, 1993; that the Defendant, **Community Bank and Trust Company**, acknowledged receipt of Summons and Complaint on June 23, 1993; that the Defendant, **State of Oklahoma ex rel. Oklahoma Tax Commission**, acknowledged receipt of Summons and Complaint on June 7, 1993; that Defendant, **County Treasurer, Tulsa County, Oklahoma**, acknowledged receipt of Summons and Complaint on June 8, 1993; and that Defendant, **Board of County Commissioners, Tulsa County, Oklahoma**, acknowledged receipt of Summons and Complaint on June 8, 1993.

It appears that the Defendants, **County Treasurer, Tulsa County, Oklahoma**, and **Board of County Commissioners, Tulsa County, Oklahoma**, filed their Answers on June 28, 1993; that the Defendant, **Osteopathic Hospital Founders Association, a corporation dba Oklahoma Osteopathic Hospital**, filed its Answer on or about June 21, 1993; that the Defendant, **Community Bank and Trust Company**, filed its Disclaimer on June 25, 1993; that the Defendant, **State of Oklahoma ex rel. Oklahoma Tax Commission**, filed its Disclaimer on or about June 23, 1993; that the Defendant, **Mellony Joy Alexander**, has failed to answer and her default has therefore been entered by the Clerk of this Court.

The Court further finds that on September 14, 1990, **Mellony Joy Alexander** filed her voluntary petition in bankruptcy

in Chapter 7 in the United States Bankruptcy Court, Northern District of Oklahoma, Case No. 90-02700-C. On January 11, 1991, a Discharge of Debtor was entered releasing debtor from all dischargeable debts. Subsequently, on February 26, 1991, Case No. 90-02700-C, United States Bankruptcy Court for the Northern District of Oklahoma, was closed.

The Court further finds that this is a suit based upon a certain mortgage note and for foreclosure of a mortgage securing said mortgage note upon the following described real property located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Fourteen (14), Block Seven (7), SUBURBAN ACRES SECOND ADDITION to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

The Court further finds that on December 3, 1986, Marvin Alexander and Mellony Joy Alexander, then husband and wife, executed and delivered to Mercury Mortgage Co., Inc. their mortgage note in the amount of \$25,950.00, payable in monthly installments, with interest thereon at the rate of 9.5 percent per annum.

The Court further finds that as security for the payment of the above-described note, Marvin Alexander and Mellony Joy Alexander, then husband and wife, executed and delivered to Mercury Mortgage Co., Inc. a mortgage dated December 3, 1986, covering the above-described property. Said mortgage was recorded on December 5, 1986, in Book 4987, Page 814, in the records of Tulsa County, Oklahoma.

The Court further finds that on June 6, 1989, Mercury Mortgage Co., Inc. assigned the above-described mortgage note and mortgage to the Secretary of Housing and Urban Development of Washington, D.C., his successors and assigns. This Assignment of Mortgage was recorded on June 6, 1989, in Book 5187, Page 1412, in the records of Tulsa County, Oklahoma.

The Court further finds that on May 1, 1989, the Defendant, Mellony Joy Alexander, entered into an agreement with the Plaintiff lowering the amount of the monthly installments due under the note in exchange for the Plaintiff's forbearance of its right to foreclose. A superseding agreement was reached between these same parties on January 1, 1990.

The Court further finds that the Defendant, Mellony Joy Alexander, made default under the terms of the aforesaid note and mortgage, as well as the terms and conditions of the forbearance agreements, by reason of her failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendant, Mellony Joy Alexander, is indebted to the Plaintiff in the principal sum of \$37,477.82, plus interest at the rate of 9.5 percent per annum from June 4, 1993 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action accrued and accruing.

The Court further finds that the Defendant, County Treasurer, Tulsa County, Oklahoma, has a lien on the property

which is the subject matter of this action by virtue of personal property taxes in the amount of \$23.00 which became a lien on the property as of 1992 (\$20.00) and 1989 (\$3.00). Said lien is inferior to the interest of the Plaintiff, United States of America.

The Court further finds that the Defendant, Board of County Commissioners, Tulsa County, Oklahoma, claims no right, title or interest in the subject real property.

The Court further finds that the Defendant, Osteopathic Hospital Founders Association, a corporation dba Oklahoma Osteopathic Hospital, has a lien on the subject real property by virtue of a Judgment, dated April 7, 1988, and recorded on April 8, 1988, in Book 5092, Page 1050, in the records of Tulsa County, Oklahoma.

The Court further finds that the Defendants, Community Bank and Trust Company and State of Oklahoma ex rel. Oklahoma Tax Commission, disclaim any right, title or interest in the subject real property.

The Court further finds that pursuant to 12 U.S.C. 1710(1) there shall be no right of redemption (including in all instances any right to possession based upon any right of redemption) in the mortgagor or any other person subsequent to the foreclosure sale.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff, the United States of America, acting on behalf of the

Secretary of Housing and Urban Development, have and recover judgment in rem against the Defendant, Mellony Joy Alexander, in the principal sum of \$37,477.82, plus interest at the rate of 9.5 percent per annum from June 4, 1993 until judgment, plus interest thereafter at the current legal rate of 4 1/2 percent per annum until paid, plus the costs of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, County Treasurer, Tulsa County, Oklahoma, have and recover judgment in the amount of \$23.00, plus penalties and interest, for personal property taxes for the years 1992 and 1989, plus the costs of this action.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, Osteopathic Hospital Founders Association, a corporation dba Oklahoma Osteopathic Hospital, have and recover judgment in the amount owing on the Judgment, dated April 7, 1988, and recorded on April 8, 1988, in Book 5092, Page 1050, in the records of Tulsa County, Oklahoma.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, Community Bank and Trust Company; State of Oklahoma ex rel. Oklahoma Tax Commission; and Board of County

Commissioners, Tulsa County, Oklahoma, have no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that upon the failure of said Defendant, Mellony Joy Alexander, to satisfy the in rem judgment of the Plaintiff herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell according to Plaintiff's election with or without appraisalment the real property involved herein and apply the proceeds of the sale as follows:

First:

In payment of the costs of this action accrued and accruing incurred by the Plaintiff, including the costs of sale of said real property;

Second:

In payment of the judgment rendered herein in favor of the Plaintiff;

Third:

In payment of the judgment rendered herein in favor of the Defendant, Osteopathic Hospital Founders Association, a corporation dba Oklahoma Osteopathic Hospital;

Fourth:

In payment of Defendant, County Treasurer, Tulsa County, Oklahoma, in the amount of \$23.00, personal property taxes which are currently due and owing.

The surplus from said sale, if any, shall be deposited with the Clerk of the Court to await further Order of the Court.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that pursuant to 12 U.S.C. 1710(1) there shall be no right of redemption (including in all instances any right to possession

based upon any right of redemption) in the mortgagor or any other person subsequent to the foreclosure sale.

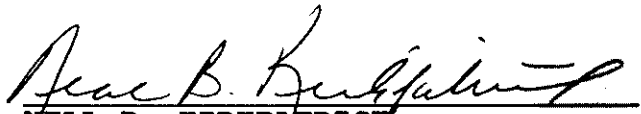
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described real property, under and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the Complaint, be and they are forever barred and foreclosed of any right, title, interest or claim in or to the subject real property or any part thereof.

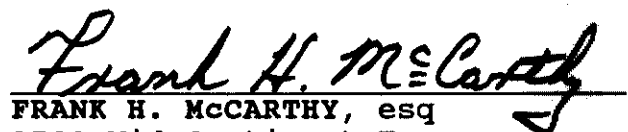
S/ JAMES O. ELLISON

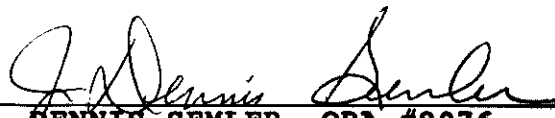
UNITED STATES DISTRICT JUDGE

APPROVED:

STEPHEN C. LEWIS
United States Attorney


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Assistant United States Attorney
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Attorney for Defendants,
County Treasurer and
Board of County Commissioners,
Tulsa County, Oklahoma

Judgment of Foreclosure
Civil Action No. 93-C-515-B

NBK:css

DATE _____

4-1-94

NORTHERN DISTRICT OF OKLAHOMA

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ENTERED ON DOCKET
DATE APR 1 1994

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

PUBLIC SERVICE COMPANY
OF OKLAHOMA,

Plaintiff,

vs.

INTERNATIONAL BROTHERHOOD
OF ELECTRICAL WORKERS,
LOCAL UNION NO. 1002
an unincorporated labor
organization, and JAMES
MORELAND, an individual,

Defendant.

Case No. 94-C-25B

FILED
MAR 31 1994
Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORDER

Now before the Court for its consideration are the Motion for Summary Judgment (Docket #4) filed by Defendants, International Brotherhood of Electrical Workers and James Moreland on February 8, 1994, and the Cross-Motion for Summary Judgment (Docket #8) filed by Plaintiff, Public Service Company on March 4, 1994.

Defendant James Moreland ("Moreland") was an employee of the Plaintiff, Public Service Company of Oklahoma ("PSO"), and a member of the International Brotherhood of Electrical Workers ("the Union"). PSO is a utility company with its principle place of business in Tulsa, Oklahoma. The Union represents employees of PSO and has a collective bargaining agreement with PSO. Moreland had been employed for 17 years with PSO until his termination on March 3, 1993. This action arises from the termination of Moreland. PSO contends that it had just cause to terminate Moreland. The Defendants' argue otherwise. The following facts are undisputed:

13

1. The collective bargaining agreement forbids PSO from demoting, suspending, or discharging employees without just cause. (See Article III, §3(a)(6), Plaintiff's Brief (Docket #8), Exhibit 1).

2. Pursuant to the agreement, a written grievance was filed, and the matter was referred to arbitration before a neutral arbitrator mutually selected by the parties from a list of arbitrators provided by the American Arbitration Association. (Plaintiff's Brief (Docket #8), page 3).

3. At two separate hearings Arbitrator Cary Williams was presented with exhibits, witness testimony from both parties, and written briefs to aid in his determination. (Plaintiff's Brief (Docket #8), pages 3-4).

4. The agreement limits the Arbitrator's award to either sustaining or setting aside the penalties imposed on the employee. (See Article II, §7 (Plaintiff's Brief (Docket #8), Exhibit 1).

5. On December 15, 1993, the Arbitrator set aside PSO's decision to terminate Moreland, and ordered he be reinstated to his former classification. (Award of Arbitrator, Defendant's Brief (Docket #5), Exhibit A).

6. PSO has informed the Defendants that it will not comply with the Arbitrator's Award. (Plaintiff's Brief (Docket # 8), page 5).

I. The Standard of Fed.R.Civ.P. 56 Summary Judgment

Summary judgment pursuant to Fed.R.Civ.P. 56 is appropriate

where "there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Celotex Corp. v. Catrett, 477 U.S. 317, 322-23 (1986); Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 250 (1986); Widon Third Oil & Gas v. FDIC, 805 F.2d 342 (10th Cir. 1986). In Celotex, 477 U.S. at 317 (1986), it is stated:

"The plain language of Rule 56(c) mandates the entry of summary judgment, after adequate time for discovery and upon motion, against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial."

To survive a motion for summary judgment, nonmovant "must establish that there is a genuine issue of material facts..." Nonmovant "must do more than simply show that there is some metaphysical doubt as to the material facts." Matsushita v. Zenith, 475 U.S. 574, 585 (1986). The evidence and inferences therefrom must be viewed in a light most favorable to the nonmoving party. Conaway v. Smith, 853 F.2d 789, 792 n.4 (10th Cir. 1988). Unless the moving party can demonstrate their entitlement beyond a reasonable doubt, summary judgment must be denied. Norton v. Liddel, 620 F.2d 1375, 1381 (10th Cir. 1980).

A recent Tenth Circuit Court of Appeals decision in Committee for the First Amendment v. Campbell, 962 F.2d 1517 (10th Cir. 1992), concerning summary judgment states:

"Summary judgment is appropriate if 'there is no genuine issue as to any material fact and . . . the moving party is entitled to a judgment as a matter of law.' . . . Factual disputes about immaterial matters are irrelevant to a summary judgment

determination. . . We view the evidence in a light most favorable to the nonmovant; however, it is not enough that the nonmovant's evidence be 'merely colorable' or anything short of 'significantly probative.' . . .

"A movant is not required to provide evidence negating an opponent's claim. . . . Rather, the burden is on the nonmovant, who 'must present affirmative evidence in order to defeat a properly supported motion for summary judgment.' . . . After the nonmovant has had a full opportunity to conduct discovery, this burden falls on the nonmovant even though the evidence probably is in possession of the movant." (citations omitted). Id. at 1521.

II. Legal Analysis and Conclusion

Defendants argue that they are entitled to summary judgment in that the arbitrator properly decided the grievance within his authority as provided in the collective bargaining agreement. Defendants contend that the sole issue before the arbitrator was whether PSO had just cause in terminating Moreland. Since the arbitrator determined that PSO did not have just cause, Defendants assert they are entitled to summary judgment.

Plaintiff, on the otherhand, claims that the arbitrator acted outside his authority by "modifying" PSO's decision to terminate Moreland. Plaintiff argues that the sole issue is whether the incidents that led to Moreland's termination actually occurred.¹

¹ The Intra-Company Correspondence (UX23) concerning Grievant's termination lists the following incidents leading to the termination:

May: Received a poor performance rating on a sub-element dealing with using his time effectively to plan, complete unfinished tasks, and learn new tasks.

October: Received a verbal warning for disrespectful action toward a superintendent.

Plaintiff contends that the arbitrator found that the incidents did occur, and thus the arbitrator was bound to follow PSO's decision to terminate Moreland.

It is worthy to note that federal courts are severely restricted in the function of judicial review of an arbitrator's decision.² "While a court is empowered to determine whether an

November: Addressed on three separate occasions for inappropriate use of his work time.

December: Counseled for inappropriate use of his work time.

January: Showed disrespectful action toward a supervisor and a plant manager. Because of the severity of his actions toward management and continued problems with his work performance he received a two day decision making leave to decide whether or not he wanted to continue to work for this Company.

February: Counseled for inappropriate use of his work time when he was noticed in a location other than his assigned work area.

February: Counseled for disruptive behavior and for exhibiting negative behavior toward management during a QUEST meeting.

March: Once again, he was doing something other than working on Company time. When confronted with the inappropriate use of his work time he knew better because of the counseling he had previously received. But nevertheless he chose to do it anyway. His actions were in complete disregard to the previous several months of effort, on the Company's part, to rehabilitate him so as to bring his work performance and behavior within the Company's rules and policies. Obviously, he did not get the message.

² The pertinent statute reads:

"In either of the following cases the United States court in and for the district wherein the award was made may make an order vacating the award upon the application of any party to the arbitration:

(a) Where the award was procured by

arbitrator's award exceeded the limits of his contractual authority, it may not review the merits of an arbitration award." Timken Co. v. Local Union No. 1123 United Steelworkers of America, 482 F.2d 1012, 1014 (1973).

The boundary of an arbitrator "is confined to interpretation and application of the Collective Bargaining Agreement . . . his award is legitimate only so long as it draws its essence from the Collective Bargaining Agreement." United Steelworkers of America v. Enterprise Wheel & Car Corp., 363 U.S. 593, 596; 80 S.Ct. 1358 (1960). It is the duty of courts to ascertain whether the arbitrator's award is derived in some rational way from the Collective Bargaining Agreement. Timken Company, 482 F.2d at 1015 (6th Cir. 1973).

corruption, fraud, or undue means.

(b) Where there was evident partiality or corruption in the arbitrators, or either of them.

(c) Where the arbitrators were guilty of misconduct in refusing to postpone the hearing, upon sufficient cause shown, or in refusing to hear evidence pertinent and material to the controversy; or of any other misbehavior by which the rights of any party have been prejudiced.

(d) Where the arbitrators exceeded their powers, or so imperfectly executed them that a mutual, final, and definite award upon the subject matter submitted was not made.

(e) Where an award is vacated and the time within which the agreement required the award to be made has not expired the court may, in its discretion, direct a rehearing by the arbitrators. 9 U.S.C. §10

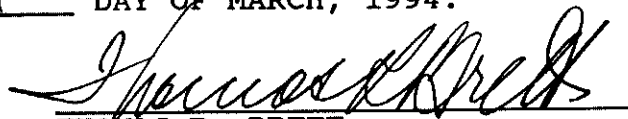
The collective bargaining agreement between PSO and the Union clearly contemplates the submission of certain disputes to binding arbitration and for the arbitrator to pass on whether a particular termination was for just cause. At the hearing, the arbitrator determined that "[t]he issue is whether Grievant was discharged for just cause, and if not, what is the remedy?"³ There is no support for Plaintiff's position that the arbitrator's only job is to determine whether the alleged incidents actually occurred. While the arbitrator obviously must decide what events actually transpired, he also must decide whether such events constitute "just cause" to terminate an employee. It is not the role of this Court to rule on the merits of the dispute; such is clearly for the arbitrator to decide. Here, the arbitrator concluded that some of the alleged events did occur, but that they did not provide PSO with the requisite just cause.⁴ The arbitrator's decision to set aside PSO's termination of Moreland does not exceed his authority, and thus this Court has no grounds to overrule his decision.

For the above stated reasons the Court therefore concludes that the Plaintiff's Motion for Summary Judgment should be and is hereby DENIED, and the Defendant's Motion for Summary Judgment should be and is hereby GRANTED.

³ Opinion and Award of Arbitrator, page 3; Defendants' Brief (Docket #5), Exhibit A.

⁴ As for other alleged incidents, the arbitrator did not make a specific finding of fact but simply concluded the incident would not have provided just cause for termination.

IT IS SO ORDERED THIS 31 DAY OF MARCH, 1994.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

ENTERED ON DOCKET
DATE APR 1 1994

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

PUBLIC SERVICE COMPANY
OF OKLAHOMA

Plaintiff,

vs.

INTERNATIONAL BROTHERHOOD
OF ELECTRICAL WORKERS,
LOCAL UNION NO. 1002,
an unincorporated labor
organization, and JAMES
MORELAND, an individual

Defendant.

Case No. 94-C-25-B ✓

FILED

MAR 31 1994

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

J U D G M E N T

In accord with the Order filed this date sustaining the Defendant's Motion for Summary Judgment, the Court hereby enters judgment in favor of the Defendant, International Brotherhood of Electrical Workers, and James Moreland, and against the Plaintiff, Public Service Company of Oklahoma. Costs are assessed against the Plaintiff, if timely applied for under Local Rule 54.1, and each party is to pay its respective attorney's fees.

Dated, this 31 day of March, 1994.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

RECEIVED 4-1-1994
APR 1 1994

FILED

APR 1 1994

Richard M. Lawrence, Court Clerk
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

HCG ENERGY CORPORATION,
Plaintiff,

v.

ARKLA ENERGY RESOURCES,
Defendant.

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Case No. 92-C-745-B

STIPULATION OF DISMISSAL

It is hereby stipulated, pursuant to Fed. R. Civ. P. 41(a)(1), that the Defendant, Arkla Energy Resources Company, formerly known as Arkla Energy Resources, a division of Arkla, Inc. ("AER") dismisses with prejudice its counterclaims set forth in Sections I(C)(7)(c), (d) and (e) of the Amended Agreed Pretrial Order filed October 28, 1993. It is further stipulated that AER dismisses without prejudice its counterclaims set forth in Sections I(C)(7)(a) and (b) of the Amended Agreed Pretrial Order filed October 28, 1993. Each party is to bear its own costs and attorneys fees.

Respectfully submitted,

JONES, GIVENS, GOTCHER & BOGAN

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AND

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By

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ATTORNEYS FOR DEFENDANT, ARKLA
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DIVISION OF ARKLA, INC.

ENTERED ON DOCKET

DATE 4-1-94

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

LEATHA A. BANKS,

Plaintiff,

-VS-

Case No. 93-C-555-E

RAYTHEON COMPANY, a corporation
in the State of Delaware, and
SEISCOR TECHNOLOGIES, a
corporation in the State
of Delaware,

Defendants.

FILED

APR 1 1994

Richard M. Lawrence, Court Clerk
U.S. DISTRICT COURT

STIPULATION OF DISMISSAL WITH PREJUDICE

Pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure, Plaintiff and Defendants hereby stipulate that this action may be and hereby is dismissed with prejudice. Each party will bear her/its own attorney's fees and costs.

DATED this 31st day of March, 1994.

Katherine S. Serio

Katherine S. Serio, OBA No. 15051

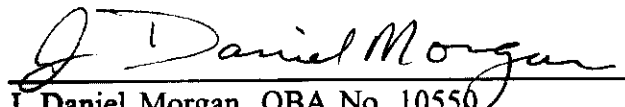
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